

# Guidebook on Democratic Policing

by the Senior Police Adviser to the OSCE Secretary General

- The Organization for Security and Co-operation in Europe (OSCE) works for **stability, prosperity and democracy** in 56 States through political dialogue about shared values and through practical work that makes a lasting difference



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Strategic Police Matters  
Office of the Secretary General  
OSCE Secretariat  
Wallnerstrasse 6, A-1010 Vienna, Austria

Tel: +43-1 514 36 6942  
Fax: +43-1 514 36 6266  
E-mail: [spmu@osce.org](mailto:spmu@osce.org)  
<http://www.osce.org/policing>  
<http://polis.osce.org>

# Table of Contents

<b>Introduction</b> .....	<b>6</b>
<b>Acknowledgements</b> .....	<b>7</b>
<b>Key Principles of Democratic Policing</b> .....	<b>9</b>
<b>Guidebook on Democratic Policing</b> .....	<b>11</b>
<b>I. Objectives of Democratic Policing</b> .....	<b>11</b>
<i>Policing as a Public Service</i> .....	11
<i>Democratic Objectives</i> .....	12
<b>II. Upholding the Rule of Law</b> .....	<b>13</b>
<i>The Role of the Police</i> .....	13
<i>Co-operation within the Criminal Justice Sector</i> .....	14
<b>III. Police Ethics and Human Rights</b> .....	<b>15</b>
<b>III.1 Police Ethics</b> .....	<b>15</b>
<i>Corruption Issues</i> .....	15
<b>III.2 Human Rights</b> .....	<b>17</b>
<i>Discrimination Issues</i> .....	17
<i>Police Investigations</i> .....	18
<i>Support of Victims and Witnesses of Crime</i> .....	20
<i>Arrest and Detention</i> .....	21
<i>Maintaining Public Order and Safeguarding Democratic Freedoms</i> .....	22
<i>Use of Force</i> .....	23
<i>Torture, Enforced Disappearance, and other Cruel or Degrading Treatment</i> .....	24
<b>IV. Police Accountability and Transparency</b> .....	<b>25</b>
<b>IV.1 Accountability and Control</b> .....	<b>25</b>
<i>Oversight Institutions</i> .....	25
<b>IV.2 Police-Public Partnership</b> .....	<b>28</b>
<i>Mechanisms for Requesting Police Service</i> .....	28
<i>Police-Media Relations</i> .....	28
<i>Public Dissemination of Reports</i> .....	28
<i>Creation of Forums for Open Discussions</i> .....	29
<i>Community-Based Policing Projects</i> .....	30
<i>Outreach to Minority Communities</i> .....	30
<i>Co-operation with Civil Society Groups</i> .....	30
<b>V. Police Organization and Management Issues</b> .....	<b>32</b>
<i>Chain of Command and Operational Autonomy</i> .....	32
<i>Supervision</i> .....	32
<i>Composition of the Police</i> .....	33
<i>Recruitment</i> .....	34
<i>Retention</i> .....	35
<i>Promotion and Career Development</i> .....	35

<i>Rights of Police Personnel</i> .....	35
<i>Equipment</i> .....	36
<i>Training</i> .....	36
<b>VI. Conclusions</b> .....	<b>38</b>
<b>References</b> .....	<b>39</b>
<b>International Documents</b> .....	<b>39</b>
<b>Bibliography</b> .....	<b>42</b>
<b>INDEX</b> .....	<b>44</b>

*Full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation in Europe.*

(CSCE, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen 1990), Preamble).

## Introduction

The police are the most visible manifestation of government authority responsible for public security. While being under enormous pressure throughout the OSCE area to counter the rising tide of organized crime and the new threats to international and national security, including those emanating from terrorism, the police must operate in accordance with national and international law and respect human rights at all times.

The OSCE participating States “consider the democratic political control of [...] the police to be an indispensable element of stability and security.”<sup>1</sup> In the course of supporting a democratization process in post-conflict societies, as well as societies in transition, a growing emphasis has been placed on the rule of law. This has revealed the lack of a standardized conceptual foundation to guide these police-related activities, resulting in a number of different approaches towards implementing police training as well as police reform programmes.

The OSCE Senior Police Adviser, in concert with OSCE participating States and partner organizations has, therefore, sought to further operationalize pre-existing norms, standards, good principles and lessons learned and to make these norms and standards accessible for practitioners concerned with policing and the administration of justice in the form of a workable and easy-to-read document: The Guidebook on Democratic Policing.

This Guidebook contributes to fulfilling the requests of the OSCE participating States to work “with other international organizations in the creation of political and legal frameworks within which the police can perform its tasks in accordance with democratic principles and the rule of law”<sup>2</sup> and to provide information regarding lessons learned and best policing practices in countering new security challenges.<sup>3</sup>

The Guidebook is designed to assist OSCE staff dealing with police and law enforcement issues as well as police practitioners and policy-makers working to develop and strengthen democratic policing. It is intended to serve as a reference to good policing practice and internationally adopted standards. As a living document, it will be open to the inclusion of newly adopted standards and future examples of good practice.

The Guidebook articulates the objectives of democratic police services and forces; the importance of their commitment to the rule of law, policing ethics, and human rights standards; the essential nature of police accountability to the law and to the society they serve; as well as the need for their co-operation with the communities, recognizing that effective policing requires partnership with the communities being served. Furthermore, the Guidebook elaborates on structural and managerial aspects within the police which are considered necessary to achieve and sustain democratic policing.

Each of these principles of democratic policing is further elaborated in the Guidebook and referenced to relevant in-depth studies and international standards or commitments. The Guidebook is the ‘key’ to ‘unlocking’ these documents for the reader. All documents which are referenced are available on a CD-ROM that is enclosed in the Guidebook. With respect to academic articles, only those could be included on the CD-ROM for which the publishers provided copyright.



Kevin Carty  
Senior Police Adviser to the OSCE Secretary General

<sup>1</sup> OSCE, *Code of Conduct on Politico-Military Aspects of Security* (Bucharest, 1994), § 20.

<sup>2</sup> OSCE, *Charter for European Security* (Istanbul, 1999), Art. 45.

<sup>3</sup> See OSCE, *Ninth Meeting of the Ministerial Council, Decision No. 9, Police-Related Activities* (Bucharest, 2001), Art. 3, pp. 34f.

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The aim of the OSCE Senior Police Adviser, Mr. Kevin Carty, was to develop this Guidebook together with OSCE participating States and partner organizations in order to receive a broad variety of views on the topic, based on different cultural and institutional backgrounds. To this end, the OSCE Senior Police Adviser brought together a group of distinguished police experts comprising representatives from participating States, relevant international organizations, and independent research organizations. He also appointed a principal drafter, Dr. Thorsten Stodiek, Senior Researcher at the Centre for OSCE Research (CORE) in the Institute for Peace Research and Security Policy at the University of Hamburg. In the course of several rounds of written experts' contributions and during a two-day experts meeting held in Vienna, the draft of the Guidebook was reviewed. The OSCE Senior Police Adviser is deeply grateful for the comprehensive and highly valued input that the experts provided to this process.

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Dmitri Alechkevitch, Political Adviser, OSCE High Commissioner on National Minorities;  
Bo Astrom, Senior Detective Superintendent, Department for Police Affairs, Division for International Co-ordination, National Police Board, Sweden;  
Paal Christian Balchen; Assistant Chief of Police, Analysis and Crime Prevention Section, National Police Directorate, Norway;  
Steve Bennett; Director, Police Education and Development, OSCE Mission in Kosovo;  
Larry Bird, Program Assistance and Evaluation, Bureau of International Narcotics, U.S. Department of State;  
Blagorodna Makeva, Senior Legal Adviser, Ministry of Internal Affairs, Police Directorate, Bulgaria;  
Jozsef Boda; Director, International Training Centre, Ministry of Justice and Law Enforcement, Budapest, Hungary/ Consultant to DCAF;  
James Brown, Associate Director, Commission on Accreditation for Law Enforcement Agencies (CALEA), USA;  
Luigi Bruno, Center of Excellence for Stability Police (CoESPU);  
Andrew Carpenter, Political Affairs Officer, Strategic Police Matters Unit (SPMU), OSCE Secretariat;  
Timothy Del Vecchio, Police Affairs Officer, SPMU, OSCE Secretariat;  
Xavier Denis, Counsellor, Permanent Representation of France to the OSCE;  
Bart D'Hooge, Head of Service - European Coordination Directorate, International Police Cooperation, Federal Police – Commissioner General's Office, Belgium;  
Knut Dreyer, Senior Police Adviser, Head of Police Affairs Unit, OSCE Mission to Croatia;  
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Christiaan Martens, Police Affairs Officer, SPMU, OSCE Secretariat;  
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# Key Principles of Democratic Policing

## I. Objectives of Democratic Policing

The police are the most visible manifestation of government authority. Their main duties are to:

- maintain public tranquillity and law and order;
- protect and respect the individual's fundamental rights and freedoms;
- prevent and combat crime; and to
- provide assistance and services to the public.

Police officers will enhance the legitimacy of the State if they demonstrate in their daily work that they are:

- responsive to public needs and expectations; and
- use the authority of the State in the people's interest.

## II. Upholding the Rule of Law

While pursuing these objectives, the police must:

- operate in accordance with the domestic law and the international law enforcement standards accepted by the OSCE participating States; and
- demonstrate commitment to the rule of law in practice.

Legislation and written policies governing the police should be:

- clear;
- precise; and also
- accessible to the public.

## III. Police Ethics and Human Rights

- In order to live up to the public's trust, the police must adhere to a code of professional conduct and demonstrate:
- Professionalism; and
- integrity.

This code should reflect the highest ethical values, expressed in:

- prohibitions; and
- imperatives of police work.

The police have particular powers to:

- temporarily deprive people of their freedom;
- limit the full enjoyment of their rights; and,
- in extreme circumstances, to use even lethal force.

Therefore, police officers must perform their duties in accordance with:

- universally agreed standards of human rights; and
- civil and political rights.

Protection and preservation of life must be their highest priority.

## IV. Police Accountability and Transparency

Democratic policing requires that the police be and consider themselves to be accountable to:

- the citizens;
- their representatives;
- the State; and
- the law.

Therefore, their activities – ranging from

- the behaviour of individual police officers to
- the strategies for police operations to
- appointment procedures or to
- budget management –

must be open to scrutiny by a variety of oversight institutions.

Furthermore, a central feature of democratic policing is the understanding that the consent of the people is required. Prerequisites for gaining public support are:

- providing transparency in police operations; and
- cultivating communication and mutual understanding with the public the police serve and protect.

## **V. Police Organization and Management Issues**

States are obliged to create a structural and managerial environment that will enable the police to effectively and efficiently implement the provisions of the rule of law, domestic and international law, and accepted human rights standards.

This includes issues such as:

- the chain of command;
- regulations on supervision;
- the composition of the police;
- the rights of police personnel; and
- the provision of adequate resources and training.

# Guidebook on Democratic Policing

## I. Objectives of Democratic Policing

1. The police are the most visible manifestation of government authority performing the most obvious, immediate and intrusive tasks to ensure the well-being of individuals and communities alike.<sup>4</sup>

### *Policing as a Public Service*

2. The main duties of the police are to maintain public tranquillity, law and order; to protect the individual's fundamental rights and freedoms – particularly life –; to prevent and detect crime; to reduce fear; and to provide assistance and services to the public.<sup>5</sup> Progress towards democratic policing is made when there is a shift “from a control-oriented approach to a more service-oriented approach”<sup>6</sup>, where the primary concern of law enforcement remains focused on proactive crime prevention.<sup>7</sup>
3. Democratic police develop and implement their activities according to the needs of the public and the State and emphasize assistance to those members of the community in need of immediate help.<sup>8</sup> The police must be responsive to the community as a whole<sup>9</sup> and strive to deliver their services promptly, and in an equal and unbiased manner.<sup>10</sup> Through their activities the police should be part of society's common efforts to promote legal protection and a sense of security.
4. Upon request, the police shall assist other public institutions in performing their services when prescribed by the law.<sup>11</sup>

<sup>4</sup> See David Bayley, *Democratizing the Police Abroad*, (Washington, 2001), p. 13; and Jeremy Travis, *Policing in Transition* (Budapest, 1998), p. 2.

<sup>5</sup> See United Nations, *Universal Declaration of Human Rights* (1949), Arts.19 and 20; United Nations, *International Covenant on Civil and Political Rights* (1966), Arts.19, 21 and 22; Council of Europe, *Declaration on the Police* (1979), Part. A §1; United Nations, *Code of Conduct for Law Enforcement Officials* (1979), Arts. 1 and 2; CSCE, *Charter of Paris* (1990), p. 3; United Nations International Police Task Force, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina* (Sarajevo 1996), Principle 5; Council of Europe, *Rec(2001) 10 European Code of Police Ethics* (2001), §§ 1 and 12; United Nations, “Guidelines for the Prevention of Crime”, Annex to: *Action to Promote Effective Crime Prevention* (2002); Council of Europe, *Rec(2003) 21 concerning Partnership in Crime Prevention* (2003); United Nations, *Prevention of Urban Crime* (2004);

David Bruce/Rachel Neild 2005, *The Police That We Want. A Handbook for Oversight of Police in South Africa* (Centre for the Study of Violence and Reconciliation, DS Print Media, Johannesburg, 2005), p. 33; and Commonwealth Human Rights Initiative, *Police Accountability. Too important to Neglect, Too Urgent to Delay* (New Delhi, 2005), pp. 18 and 31.

<sup>6</sup> OSCE, *The Role of Community Policing in Building Confidence in Minority Communities. Final Report* (Vienna 2002), p. 4.

<sup>7</sup> See Council of Europe, *Recommendation No. R (87) 19 on the Organisation of Crime Prevention* (1987); United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 5;

Council of Europe, *Rec(2000) 20 on the Role of Early Psychological Intervention in the Prevention of Criminality* (2000); Council of Europe, *Partnership in Crime Prevention* (op.cit., note 5); and Council of Europe, *Rec(2006) 8 on Assistance to Crime Victims* (2006).

<sup>8</sup> See Council of Europe, *Resolution 690 (1979) on the Declaration on the Police* (1979), part B, §1; United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Article 1 (c); and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 44, 49 and 51.

<sup>9</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Preamble, § 8(a); and Council of Europe, *Codes of Conduct for Public Officials* (2000), Art. 5.2.

<sup>10</sup> See Ralph Crawshaw, *Human Rights and the Theory and Practice of Policing, Papers in the Theory and Practice of Human Rights, No. 10* (Human Rights Centre, University of Essex, Colchester, 1994), p. 14; Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (1998), Standard 1; OSCE, *The Role of Community Policing* (op.cit., note 6), p. 6; Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 21; Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 16; and Trevor Jones, “The Governance and Accountability of Policing”, in: Tim Newburn, *Handbook of Policing* (Portland, 2005), p. 607.

<sup>11</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 18.

## Democratic Objectives

5. When intervening in conflicts, the police must be guided by the principle that “everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the right and freedom of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”<sup>12</sup>. The police can therefore be considered the gatekeepers of equality, integration and cohesion<sup>13</sup> in a time of rapidly changing composition of the population in most major cities.<sup>14</sup>
6. What problems are brought to the police to be resolved – and by which segments of society – as well as how the police respond are clear indicators of the extent to which democratic policing practices have been adopted.<sup>15</sup>
7. The police will enhance the legitimacy of the States if they demonstrate in their daily work that they are responsive to public needs and expectations, and they use the authority of the State in the people’s interest.<sup>16</sup> (See also § 21.) If the police carry out their responsibilities in a way that reflects democratic values, the cause of democracy and the legitimacy of the State are advanced.<sup>17</sup>
8. Public trust and confidence in the police are prerequisites for effective policing. Without this trust the public will not be willing to report crimes and provide the police with the information needed to work successfully.<sup>18</sup> (See also §§ 20, 88, 110 and 124.)
9. Furthermore, democratic policing requires that the police simultaneously stand outside of politics and protect democratic political activities and processes (e.g. freedom of speech, public gatherings, and demonstrations). Otherwise, democracy will be threatened.<sup>19</sup> (See also §§ 65 and 139.)

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<sup>12</sup> United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 29 (2).

<sup>13</sup> See Foundation ‘Policing for a Multi-Ethnic Society’, *Rotterdam Charter: Policing for a Multi-ethnic Society* (Rotterdam, 1996), Art. 1.4; and High Commissioner on National Minorities (HCNM), *Recommendations on Policing in Multi-Ethnic Societies* (The Hague, 1994), Rec. 1, p. 7.

<sup>14</sup> See Foundation ‘Policing for a Multi-Ethnic Society’, *Rotterdam Charter* (op.cit., note 13), Art. 2.1.

<sup>15</sup> See Council of Europe, *Recommendation No. R (85) 4 on Violence in the Family* (1985); William Lewis/Edward Marks, “Overview”, in: James Burack/William Lewis/Edward Marks, *Civilian Police and Multinational Peacekeeping – A Workshop Series. A Role for Democratic Policing* (National Institute of Justice, Washington, 1999), pp. 1f.; Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art 5.3; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 23; and Council of Europe, *Assistance to Crime Victims* (op.cit., note 7).

<sup>16</sup> See Bayley, *Democratizing the Police Abroad* (op.cit., note 4), p. 14; United Nations Best Practices Unit, *Handbook on United Nations Multidimensional Peacekeeping Operations. Chapter VII: Police, Judiciary and Corrections Aspects of Rule of Law* (New York), p. 3; and Office of the United Nations High Commissioner for Human Rights (OHCHR), *Human Rights and Law Enforcement, Professional Training Series, No. 5* (New York/Geneva, 1997), p. 48.

<sup>17</sup> See Travis, *Policing in Transition* (op.cit., note 4), p. 2.

<sup>18</sup> See David Greenwood/Sander Huisman (eds.), *Transparency and Accountability of Police Forces, Security Services and Intelligence Services*, (DCAF, Geneva, 2005), p. 14.

<sup>19</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 4.2; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 43; Bayley, *Democratizing the Police Abroad* (op.cit., note 4), p. 14; Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 18; and Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 18.

## II. Upholding the Rule of Law

### *The Role of the Police*

10. Everywhere the police are under pressure to counter rising crime and the threats to international and national security including those resulting from international terrorism. However, the police must at all times operate in accordance with domestic<sup>20</sup> laws (such as constitutions, criminal codes and police acts) and international law enforcement (and human rights) standards<sup>21</sup> and demonstrate commitment to the rule of law in practice.<sup>22</sup>
11. Legislation and written policies governing the work and conduct of the police should be clear, precise and also accessible to the public. These policies and guidelines should define the functional roles of the police, and the agencies' values, missions, goals and priorities. They should also provide for clear rules, regulations and best practices for the execution of specific police tasks. Furthermore they should cover the legal regulation of police power as well as precise definitions of criminal offences. Making these policies and regulations available to the public permits police performance to be measured.<sup>23</sup> (See also §§ 80, 87, 107 and 117.)
12. "Police personnel shall be subject to the same legislation as ordinary citizens, and exceptions may only be justified for reasons of the proper performance of police work in a democratic society."<sup>24</sup> (See also §§ 9 and 139.)
13. The police must always verify the lawfulness of their intended actions<sup>25</sup> and should refrain from carrying out any order they know, or ought to know, is unlawful.<sup>26</sup> Police officers should also prevent and rigorously oppose any (police-committed) violations of the law and international standards.<sup>27</sup> "Police personnel, at all levels, shall be personally responsible and accountable for their actions or omissions or for orders to subordinates."<sup>28</sup> (See also §§ 26 and 90.)
14. The police must intervene in situations where and when law and order are endangered – even if police officers are off-duty – always within their means to do so.
15. When intervening, police officers must identify themselves as police officers.<sup>29</sup>
16. The police are obliged to enforce the law regardless of a suspect's social standing or organizational or political affiliation.<sup>30</sup>

<sup>20</sup> The term 'domestic' hereafter shall encompass all levels of administrative division within a single country, such as local; tribal; state/provincial; and federal/national.

<sup>21</sup> See United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5), Art. A(3); CSCE, *Conference on Security and Co-operation in Europe. Final Act* (Helsinki, 1975), Chap. 1, Art. VII, p. 7; United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Arts. 1 and 5; Council of Europe, *Declaration on the Police* (op.cit., note 5), Art. 1; Council of Europe, *Code of Conduct for Public Officials* (op.cit., note 9), Art. 4.1; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 3.

<sup>22</sup> See United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 1.

<sup>23</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 4.

<sup>24</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 5; see also Council of Europe, *Declaration on the Police* (op.cit., note 5), Part. B, §§ 9 and 11; Crawshaw, *Human Rights and Policing* (op.cit., note 10), p. 14; Collin Lewis, *Complaints Against Police. The Politics of Reform* (Annandale, 1999), pp. 9f.; and Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 17.

<sup>25</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 38.

<sup>26</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), App. A, § 4; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 39.

<sup>27</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Arts. 7 and 8; and Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, §§ 7 and 10.

<sup>28</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 16.

<sup>29</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (1990), Art. 10; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 14 and 45; and Council of Europe, *The CPT Standards. "Substantive" Sections of the CPT's General Reports* (2004), p. 7, § 39.

<sup>30</sup> See Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 37; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 16, 36, 38, 39 and 40;

## **Co-operation within the Criminal Justice Sector**

17. While the police and other entities of the criminal justice sector must form interrelated entities with functional relationships to ensure lawful, due, effective and fair criminal proceedings in respect of detained suspects, “the police shall, as a general rule, have no judicial functions”<sup>31</sup> and “should be deprived of their judicial powers wherever these exist”<sup>32</sup>. The police must strictly respect the independence and the impartiality of judges.<sup>33</sup> In “countries where the police are placed under the authority of the public prosecutor or the investigating judge, the police shall receive clear instructions about the priorities governing criminal investigation policy and the progress of the criminal investigation in individual cases. The police should keep the superior criminal investigation authorities informed of the implementation of their instructions; in particular, the development of criminal cases should be reported regularly”<sup>34</sup>.
18. The need for functional relationships among all entities of the criminal justice sector also implies that reform of one entity is only effective and sustainable if the other entities are reformed, too.
19. Furthermore “the police shall not take the role of prison staff, except in cases of emergency”<sup>35</sup>.

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<sup>31</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 8; see also § 9.

<sup>32</sup> Hungarian Helsinki Committee, *The Budapest Recommendations* (1999), Art. 10.

<sup>33</sup> See United Nations, *Basic Principles on the Independence of the Judiciary* (1985), Arts. 1, 3 and 4.

<sup>34</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 9.

<sup>35</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 10.

### III. Police Ethics and Human Rights

#### III.1 Police Ethics

20. In order to live up to the public's trust, the police must demonstrate professionalism and integrity by adhering to a code of professional conduct.<sup>36</sup> In view of limited resources and the need to set priorities for action, police must use discretion when enforcing the law. Police discretion, however, "is only permissible and desirable when it is fairly in the interest of justice"<sup>37</sup>, and when it conforms to guidelines and the code of professional conduct. This code should reflect the highest ethical values<sup>38</sup> expressed in prohibitions and imperatives of police work. The police must demonstrate a high degree of integrity in their performance, be willing to resist temptations to abuse police powers, and adhere to these values.
21. The police must execute their duties in a skilful, honest, impartial and efficient manner, considering only the public interest and the people they serve.<sup>39</sup> (See also §§ 7 and 118.)
22. Police officers should take proper care of and maintain equipment and should spend financial resources efficiently.<sup>40</sup>
23. Police officers should abstain from any activity outside the police which is likely to interfere with the impartial performance of their police duties or which may give rise to the impression amongst the public that this might be the case.<sup>41</sup>

#### Corruption Issues

24. Police officers must not allow their private interests to interfere with their public position, and it is their responsibility to avoid such conflicts of interests.<sup>42</sup> They must never take advantage of their position for their private interest or that of their families, close relatives, friends, and persons or organizations with whom they have or have had a relation.<sup>43</sup>
25. Corruption constitutes a serious criminal offence, which needs to be covered specifically in domestic laws.<sup>44</sup> Moreover, corruption perverts the fair distribution of police services. Both aspects are severely damaging to the public image of the police and the authority of the State.
26. Therefore, police officers shall not commit, but rather oppose any act of corruption.<sup>45</sup> Corruption includes the direct or indirect offer, or the solicitation or acceptance, "whether directly or indirectly, by a police officer of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission already done or omitted or to be done or omitted in the future" in or in

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<sup>36</sup> See United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 3;

Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Arts. 1, 2, 3 and 4; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), Definition of the Scope of the Code and § 63.

<sup>37</sup> Lewis, *Complaints Against Police* (op.cit., note 24), p. 11;

see also Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 7.

<sup>38</sup> See United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 3.

<sup>39</sup> Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 5.2.

<sup>40</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 23; and

Commission on Accreditation for Law Enforcement Agencies (CALEA), *Standards for Law Enforcement Agencies* (Fairfax, 2006), p. 26-1.

<sup>41</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Arts. 8, 9, 13, 14, 15, 16, 18, 19, 20 and 21.

<sup>42</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 8.

<sup>43</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 13.

<sup>44</sup> See Interpol, *Global Standards to Combat Corruption in Police Forces/Services* (2002), Art. 4a;

Council of Europe, *Resolution (97) 24 on The Twenty Guiding Principles for the Fight Against Corruption* (1997), Art. 2; and

Council of Europe, *Criminal Law Convention on Corruption* (Strasbourg, 1999), Arts. 2, 3, 17 and 19.

<sup>45</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 7;

Council of Europe, *Declaration on the Police* (1979), Part A, § 2;

Council of Europe, *Codes of Conduct for Public Officials* (2000); and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 46.

connection with the police officer's position or "performance of any function connected with policing".<sup>46</sup> (See also § 13.)

27. Ethical dilemmas, however, may arise in view of the blurry line between proper and improper acceptance of gratuities. "Gifts whose purpose and outcomes are the cementing of good relationships in the community and whose net value is trifling may well be appropriate and may not be seen as impacting on the perceived impartiality of the organization or the single officer."<sup>47</sup> Nevertheless, the strongest argument against the acceptance of gratuities is based on the principle of fair distribution of police service and the idea that the provision of policing is deemed to be a public good, which is indivisible, and which everybody has the right to receive.<sup>48</sup> (See also § 111.)
28. The fight against corruption requires the application of anti-corruption policies and codes of conduct for the correct, honourable and proper performance of police officers, as well as effective measures to implement those policies at all levels of the police.<sup>49</sup> An effective solution must target not only the root problem of low incomes, and in particular opportunities in certain types of policing for receiving bribes, but must also enhance the efficacy of the discipline and sanctions systems.<sup>50</sup>
29. Thus, the "cautious anticipation of the dangers that might result from certain types of policing" in connection with the knowledge of the financial background of police officers and their potential conflicts of interest gained by demanding declarations of assets, should lead to the careful "selection of less vulnerable officers"<sup>51</sup>. Further administrative measures could include removing opportunities for corruption by taking some decisions out of the hands of police officers, or by rotating officers on a regular basis.<sup>52</sup>
30. There is a need for an effective mechanism to oversee and enforce the high anti-corruption standards and to guarantee fair and thorough investigations and bring to justice (see oversight institutions, Chap. IV.1) without fear, favour, affection or ill will those who engage in corruption and dishonesty,<sup>53</sup> regardless of their rank.
31. Moreover, police agencies should establish measures and mechanisms to facilitate the reporting of acts of corruption to appropriate authorities, and oblige their officers to report to the appropriate authority acts or omissions which constitute or may constitute corruption.<sup>54</sup>
32. The police agencies must take appropriate measures to provide protection from potential retaliation or intimidation for witnesses and experts who testify to acts of corruption and, when appropriate, for their relatives and other persons close to them.<sup>55</sup>

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<sup>46</sup> See Interpol, *Global Standards to Combat Corruption in Police Forces/Services* (op.cit., note 43), Art. 2a; see also Art. 2b.

<sup>47</sup> Peter Neyroud, "Policing and Ethics", in: Tim Newburn, *Handbook of Policing* (Portland, 2005), p. 589; see also Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Arts. 18, 19 and 20.

<sup>48</sup> See Tim Newburn, *Understanding and Preventing Police Corruption: Lessons from the Literature* (Police Research Series Paper 110, London, 1999), p. 9.

<sup>49</sup> See United Nations, *International Co-operation for Crime Prevention and Criminal Justice in the Context of Development* (1990), Art. A.8;

Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 5;

United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 7;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 21; and

United Nations Office on Drugs and Crime (UNODC), *United Nations Convention against Corruption*, Arts. 5 and 8(2).

<sup>50</sup> See Council of Europe, *The Twenty Guiding Principles for the Fight Against Corruption* (op.cit., note 44), Art. 10;

Council of Europe, *Criminal Law Convention on Corruption* (op.cit., note 44), Art. 19(1) and (2);

Newburn, *Understanding and Preventing Police Corruption* (op.cit., note 47), p. 46;

Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 25.2; and

Frank Harris, *The Role of Capacity-Building in Police Reform*, OMIK, Department of Police Education and Development, (Pristina, 2005), p. 26.

<sup>51</sup> Newburn, *Understanding and Preventing Police Corruption* (op.cit., note 48), p. 46;

see also Council of Europe, *Declaration on the Police* (op.cit., note 5), Part. B, §§ 4 and 5; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 20 and 32.

<sup>52</sup> See Newburn, *Understanding and Preventing Police Corruption* (op.cit., note 48), p. 46.

<sup>53</sup> See Council of Europe, *The Twenty Guiding Principles for the Fight Against Corruption* (op.cit., note 44), Art. 3 and 7;

Council of Europe, *Criminal Law Convention on Corruption* (op.cit., note 44), Arts. 2, 3, 17 and 19;

Interpol, *Global Standards to Combat Corruption in Police Forces/Services* (op.cit., note 44), Art. 4(d) and (f); and

UNODC, *United Nations Convention against Corruption* (op.cit., note 49), Art. 8(6).

<sup>54</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 46; and

UNODC, *United Nations Convention against Corruption* (op.cit., note 49), Art. 8(4).



33. In addition, the fight against corruption within the police requires public reporting on the adequacy, application and effectiveness of the anti-corruption system,<sup>56</sup> as well as participation by civil society (see co-operation with communities, Chap. IV.2).

### III.2 Human Rights

34. The police have particular powers (including the authorization to potentially use force) to temporarily deprive people of their freedom, to limit the full enjoyment of their rights (for example, to stop, question, detain and arrest, seize property, take fingerprints and photographs and conduct intimate body searches) and, under extreme circumstances, to use even lethal force. Furthermore, the police have, in many instances, the discretion to decide whether and how to use these powers.<sup>57</sup> They must, however, always adhere to upholding the rule of law, in accordance with the best international standards and the procedural rules and policies laid down in the applicable national and local laws.
35. In the performance of their duty, law enforcement officials must respect and protect human dignity and maintain and uphold basic human rights as well as civil and political rights.<sup>58</sup>

#### **Discrimination Issues**

36. In accordance with the democratic principle of equality before the law, the police are obliged to protect all citizens equally without discrimination and without distinction as to sex, race, colour, language, religion, opinion, social, national or ethnic origin, property, birth or other status.<sup>59</sup>
37. According to international human rights standards, States are obliged to provide for “the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution”<sup>60</sup>. Moreover, vulnerable groups or persons should enjoy particular protection.<sup>61</sup>

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<sup>55</sup> See Council of Europe, *Criminal Law Convention on Corruption* (op.cit., note 44), Art. 22; and UNODC, *United Nations Convention against Corruption* (op.cit., note 49), Art. 32(1).

<sup>56</sup> See Council of Europe, *The Twenty Guiding Principles for the Fight Against Corruption* (op.cit., note 44), Art. 16.

<sup>57</sup> See Lewis, *Complaints Against Police* (op.cit., note 24), pp. 1 and 10; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), Definition of the Scope of the Code; and Council of Europe, *The CPT Standards* (op.cit., note 29).

<sup>58</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5); United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5); United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 2; CSCE, *Charter of Paris* (op.cit., note 5), p. 3; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 3.

<sup>59</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 7; CSCE, *Final Act* (op.cit., note 20), Art. 6; Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, §§ 2 and 8, and Part B, § 4; CSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE* (Copenhagen, 1990), Art. 5.9; Foundation ‘Policing for a Multi-Ethnic Society’, *Rotterdam Charter* (op.cit., note 13), Arts. 1.4, 1.6, and 1.7; Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 1; Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Arts. 5(3), 7, 9, 16(2) and 18; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 40 and 52; and Council of Europe, European Commission against Racism and Intolerance (ECRI), *General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination* (2003).

<sup>60</sup> United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination* (1965), Art. 5(b); see also United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 2; United Nations, *Convention on the Elimination of All Forms of Discrimination against Women* (1979); Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 8; and Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 1.

<sup>61</sup> See United Nations, *Convention on the Rights of the Child* (1989), Preamble, Arts. 2(2) and 3(1); CSCE, *Charter of Paris* (op.cit., note 5), Art. 11; CSCE, *Copenhagen Document* (op.cit., note 59), Art. 25.4; CSCE, *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE* (Moscow, 1991), Arts. 38 and 41.1; United Nations High Commissioner for Human Rights, *Human Rights and Law Enforcement* (op.cit., note 16), p. 77; Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 1; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 18, 25, 44, 49 and 54; and European Platform for Policing and Human Rights (EPPHR), *Why and How Human Rights NGOs and Police Services Can and Should Work Together* (2004), p. 15.

38. The protection and promotion of persons belonging to national minorities is an “essential factor for democracy, peace, justice and stability within, and between [OSCE] participating States”<sup>62</sup>. Therefore, the police must strive to use their special and unique powers to combat acts motivated by racism and xenophobia.<sup>63</sup>
39. Guaranteeing the equal protection of all before the law also prohibits the police from discriminating against any person on the basis of race, gender, religion, language, colour, political opinion, national origin, property, birth or other status.<sup>64</sup> (see also §§ 126 and 129.)
40. “Discriminatory policing has the effect of criminalizing entire communities and denying them justice.”<sup>65</sup> In this context, special attention must be paid to the practice of ethnic profiling. Profiling, in itself, can be a useful tool to assist law enforcement officers in carrying out their duties. Biased profiling (i.e. selecting individuals solely based on a common trait of a group), however, must be avoided.<sup>66</sup> For instance, “being a member of a specific (ethnic) group who are stereotypically assumed to be more likely to be involved in crime cannot be used as grounds for suspicion”<sup>67</sup>. The discriminatory practice of “profiling of Roma and Traveller groups tends to be Europe-wide”<sup>68</sup> and has been recognized by the OSCE participating States as a particular problem.<sup>69</sup>
41. Inappropriately high levels of law enforcement in minority communities, taking the form, for example, of disproportionate numbers of patrols among, or menacing behaviour towards specific groups or certain communities – by sometimes heavily armed units must be avoided.<sup>70</sup>
42. Closely related to the gender aspect of non-discrimination is the issue of sexual harassment by police officers. 1 Police officers are strictly prohibited from sexually harassing anyone.<sup>71</sup>

### **Police Investigations**

43. Police investigations must be based on reasonable suspicion of an actual or possible offence or crime.<sup>72</sup> Public information that serves to initiate police investigations must be evaluated and acted upon in an unbiased and effective manner.
44. In their (investigative) work police officers must be committed to the presumption of innocence until a suspect is found guilty by a court,<sup>73</sup> as well as to the principle of a due investigative process.

<sup>62</sup> OSCE, *Charter for European Security* (op.cit., note 2), Art. 19.

<sup>63</sup> See Foundation ‘Policing for a Multi-Ethnic Society’, *Rotterdam Charter* (op.cit., note 13), Introduction; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 30; and Council of Europe, *National Legislation to Combat Racism and Racial Discrimination* (op.cit., note 59), § 7.

<sup>64</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 2; Council of Europe, *European Convention on Human Rights/Convention for the Protection of Human Rights and Fundamental Freedoms* (1950), Art. 14 and Protocol 12; United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination* (op.cit., note 60), Arts. 2 and 5; United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5), Arts. 2 and 3; United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Arts. 1 and 2; United Nations, *Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities* (1993), Art. 2.2; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 40.  
<sup>65</sup> Ben Bowling/Coretta Phillips, “Policing Ethnic Minority Communities”, in: Tim Newburn, *Handbook of Policing* (Portland, 2005), p. 549.

<sup>66</sup> See Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 14; CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), Art. 1.2.9; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 16, p. 24.

<sup>67</sup> Bowling/Phillips, “Policing Ethnic Minority Communities” (op.cit., note 65), p. 537.

<sup>68</sup> HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 16, p. 24.

<sup>69</sup> See OSCE, *Charter for European Security* (op.cit., note 2), Art. 20.

See Trevor Jones/Tim Newburn/David Smith, *Democracy and Policing*, (Policy Studies Institute, London, 1994), p. 46.

<sup>71</sup> See CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), p. 26-1.

<sup>72</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 8; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 47.

<sup>73</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 11(1); United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5), Art. 14(2); CSCE, *Copenhagen Document* (op.cit., note 58), Art. 5.19;

Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 7; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 48; and Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 23.

45. Interviews by the police (of witnesses, victims and suspects) must be conducted in a language which the persons interviewed understand. Before interviewing, police officers must identify themselves and others present during the interview. Police must inform the persons interviewed of the reasons for the interview, their rights and the procedure applicable to the investigation. Persons interviewed must be informed of their right to contact a lawyer and to have the lawyer present during the interrogation if provided for by law. (For more on support of victims and witnesses see §§ 52-54). Furthermore, suspects must be informed of any charge against them.<sup>74</sup> Suspects must not be obliged to plead their case, to answer any questions, or to incriminate themselves or their next of kin nor to confess guilt. Obtaining a confession or any other statement by the use of force, torture (see also § 77) or the threat of using such means, or by using drugs must be prohibited and made punishable.<sup>75</sup> Clear rules or guidelines must also be established for interviewing persons who are under the influence of drugs or alcohol.<sup>76</sup>
46. Records should systematically be kept of the time at which interviews start and end, of any request made by the persons interviewed, and of the persons present during each interview.<sup>77</sup>
47. Furthermore, police investigations must be “sensitive and adaptable to the special needs of persons, such as children, juveniles, women, and minorities including ethnic minorities”<sup>78</sup>. Women, in particular, are in need of unbiased, immediate and empathic support in cases of domestic violence and sex crimes, as well as trafficking and sexual exploitation.<sup>79</sup>
48. In the course of investigations, police may only interfere with an individual’s right to privacy (including private life, family life, home and correspondence) when strictly and legally necessary and only to achieve a legitimate objective.<sup>80</sup> Information and documents acquired by the police must be treated appropriately and with all necessary confidentiality.<sup>81</sup> (See also § 98.)
49. New technological means allow for increasing intrusion into the privacy of citizens (and the use of deception) and have the potential for damaging not only privacy and freedom of expression but also public trust in the authorities.<sup>82</sup> In order to “maintain a fair balance between ensuring public safety through law enforcement measures and securing the rights of individuals”<sup>83</sup>, legislative frameworks governing the performance of undercover investigations must be developed. The performance management of the practice includes internal control mechanisms (supervision, guidelines, authorization procedures, budget, performance management, review of results), as well as external oversight mechanisms (judicial control, democratic parliamentary control, control by data protection officials.)<sup>84</sup> (See also § 84.)

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<sup>74</sup> See CSCE, *Moscow Document* (op.cit., note 61), Art. 23 ii, iii; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 50, 53, 55 and 57; Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 12; International Committee of the Red Cross (ICRC), *Human Rights and Humanitarian Law in Professional Policing Concepts* (Geneva, 2002), p. 23; and Council of Europe, *The CPT Standards* (op.cit., note 29), pp. 6 -7, §§ 36 - 39.

<sup>75</sup> See OSCE Mission in Kosovo (OMIK), *Human Rights and Law Enforcement. Booklet of Human Rights for Police*, p. 13.

<sup>76</sup> See Council of Europe, *The CPT Standards* (op.cit., note 29), § 39, p. 7.

<sup>77</sup> See Council of Europe, *The CPT Standards* (op.cit., note 29), § 39, p. 7.

<sup>78</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 49; see also § 44.

<sup>79</sup> See Council of Europe, *Violence in the Family* (op.cit., note 15); Council of Europe, *Recommendation No. R (91) 11 concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, Children and Young Adults* (1991); Council of Europe, *Recommendation No. R (2000) 11 on Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation* (2000); and Council of Europe, *Rec(2001) 16 on the Protection of Children against Sexual Exploitation* (2001).

<sup>80</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 12; Council of Europe, *European Convention on Human Rights* (op.cit., note 63), Art. 8; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 41 and 42.

<sup>81</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 4; Council of Europe, *Declaration on the Police* (op.cit., note 5), App. A.15; and Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Arts 11 and 22.

<sup>82</sup> See Council of Europe, *Recommendation No. R (87) 15 on regulating the Use of Personal Data in the Police Sector* (1987), Preamble; and Neyroud, “Policing and Ethics” (op.cit., note 46), p. 582.

<sup>83</sup> Council of Europe, *Rec(2005) 10 on “Special Investigation Techniques” in Relation to Serious Crimes including Acts of Terrorism* (2005), Preamble.

<sup>84</sup> See Council of Europe, *Use of Personal Data in the Police Sector* (op.cit., note 82), Principles 1-8; and

Although specific types of police-related activities may justify restrictions in transparency because of public or national security concerns, these activities nevertheless must not be left unchecked by the appropriate civilian authorities. (See also § 98.)

50. Strict control by a data protection official is also necessary to ensure that the “collection, storage, and use of personal data by the police shall be carried out in accordance with international data protection principles and, in particular, be limited to the extent necessary for the performance of lawful, legitimate and specific purposes.”<sup>85</sup> Particular attention must also be paid to rules on exchanging information between the police and other elements of the criminal justice system, and on exchanging data at the international level.<sup>86</sup>
51. The supervisory authority should also take measures to inform the public of the “existence of files which are the subject of notification as well of its rights with regard to these files”. “Data subjects should be able to obtain, where appropriate, rectification of their data which are contained in a file.”<sup>87</sup>

### **Support of Victims and Witnesses of Crime**

52. The police must provide necessary support to victims of crime without discrimination, and with compassion and respect for their dignity. They should ensure their health and safety in a constructive and reassuring manner.<sup>88</sup> “Police officers should inform the victim about the possibilities of obtaining assistance, practical and legal advice, compensation from the offender and State compensation. The victim should be able to obtain information on decisions made with regard to their case and on the outcome of the police investigation. In any report to prosecuting authorities, the police should give as clear and complete a statement as possible of the injuries and losses suffered by the victim.”<sup>89</sup>
53. In order to protect witnesses of a crime from acts of intimidation or revenge, appropriate legal measures and specific witness protection programmes should be set up. “The main objectives of these programmes should be to safeguard the life and personal security of witnesses, their relatives and other persons close to them. Witness protection programmes should offer various methods of protection: these may include giving witnesses and their relatives and other persons close to them an identity change, relocation, assistance in obtaining new jobs, providing them with body-guards and other physical protection.”<sup>90</sup> Moreover, acts of intimidation of witnesses should be “made punishable either as separate criminal offences or as part of the offence of using illegal threats.”<sup>91</sup>
54. Police officers must have “adequate training to deal with cases where witnesses might be at risk of intimidation”<sup>92</sup>.

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Council of Europe, “*Special Investigation Techniques*” in *Relation to Serious Crimes including Acts of Terrorism* (op.cit., note 83), Arts. 1-3.

<sup>85</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 42;

see also Council of Europe, *Use of Personal Data in the Police Sector* (op.cit., note 82), Principles 1-5 and 7-8.

<sup>86</sup> See Interpol, Resolution No. AG-2003-RES-04, *Rules on the Processing of Information for the Purposes of International Police Co-operation* (2003);

Interpol, *Resolution No. AG-2005-RES-15, Amendments to the Rules on the Processing of Information for the Purposes of International Police Co-operation* (2005); Interpol, *Rules on the Processing of Information for the Purposes of International Police Co-operation* (2005); and

Council of Europe, “*Special Investigation Techniques*” in *Relation to Serious Crimes including Acts of Terrorism* (op.cit., note 83), Art. 15.

<sup>87</sup> See Council of Europe, *Use of Personal Data in the Police Sector* (op.cit., note 82), Principles 6.1. and 6.3.

<sup>88</sup> See United Nations, *Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985), Arts. A. 4 and A. 6(e);

Council of Europe, *Recommendation No. R (85) 11 on the Position of the Victim in the Framework of Criminal Law and Procedure* (1985), Arts. 1-4;

Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 2;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 52; and

Council of Europe, *Assistance to Crime Victims* (op.cit., note 7), Arts. 2 and 3.

<sup>89</sup> Council of Europe, *Position of the Victim in the Framework of Criminal Law and Procedure* (op.cit., note 88), Arts. 1-4;

see also Council of Europe, *Assistance to Crime Victims* (op.cit., note 7).

<sup>90</sup> Council of Europe, *Recommendation No. R (97) 13 concerning Intimidation of Witnesses and the Rights of the Defence* (1997), Arts. 14-15;

see also Art. 51; and Council of Europe, *Rec(2005) 9 on the Protection of Witnesses and Collaborators of Justice* (2005), Arts. 1, 2, and 8-28.

<sup>91</sup> Council of Europe, *Protection of Witnesses and Collaborators of Justice* (op.cit., note 90), Art. 3.

<sup>92</sup> Council of Europe, *Intimidation of Witnesses and the Rights of the Defence* (op.cit., note 90), Art. 7.

## Arrest and Detention

55. In cases of a breach of the law, police are obliged to support the judiciary in bringing offenders to justice. In doing so, they must respect fundamental human and civil rights and ensure that proper care is taken of people in custody.<sup>93</sup> Depriving persons of their liberty should be as limited as possible and conducted with consideration for the dignity, vulnerability and personal needs of each detainee.<sup>94</sup>
56. The police should, to the extent possible and in accordance with domestic law, promptly inform persons deprived of their liberty – in a language which they understand – of the reasons for the deprivation of their liberty and of any charge against them. They shall also without delay and in advance of their custodial interrogation inform them of their rights and of the procedure applicable to their case.<sup>95</sup> “Persons deprived of their liberty by the police shall have the right to have the deprivation of their liberty notified to a third party of their choice, to have access to legal assistance and to have a medical examination by a doctor, whenever possible, of their choice.”<sup>96</sup> Parents or guardians of a juvenile detainee must be informed about the fact.<sup>97</sup>
57. “Clear rules or guidelines should exist on the way in which police interviews are to be conducted. They should address, inter alia, the following matters: the informing of the detainee of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the detainee may be required to stand while being questioned; the interviewing of persons who are under the influence of drugs, alcohol, etc. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detainee during an interview, and of the persons present during each interview.”<sup>98</sup>
58. Detainees must not be obliged to plead their case, to answer any questions, or to incriminate themselves or their next of kin, nor to confess guilt. Obtaining a confession or any other statement by the use of force, torture (see also § 77) or the threat of using such means, or by using drugs must be prohibited and be made punishable.<sup>99</sup> According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the practice of blindfolding persons in police custody – in particular during periods of questioning – should be “expressly prohibited”.<sup>100</sup>
59. “The questioning of criminal suspects is a specialist task which calls for specific training if it is to be performed in a satisfactory manner”.<sup>101</sup>
60. A systematic custody record should be kept for each detainee,<sup>102</sup> including documentation of reason, date and time in and out of the detention facility, precise information on the place of

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see also Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 51; and Council of Europe, *Protection of Witnesses and Collaborators of Justice* (op.cit., note 90), Art. 7.

<sup>93</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Arts. 3, 5, 7 and 9; Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 8; and Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 40.

<sup>94</sup> See CSCE, *Moscow Document* (op.cit., note 61), Art. 23; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 50 and 54.

<sup>95</sup> See CSCE, *Moscow Document* (op.cit., note 61), Art. 23 ii, iii; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 55; Council of Europe, *The CPT Standards* (op.cit., note 29), §§ 36-38, p. 6; and Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standards 6 and 7.

<sup>96</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 57; see also § 10; and Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 12.

<sup>97</sup> See ICRC, *Human Rights and Humanitarian Law in Professional Policing Concepts* (op.cit., note 74), p. 23.

<sup>98</sup> Council of Europe, *The CPT Standards* (op.cit., note 29), § 39, p. 7.

<sup>99</sup> See OMIK, *Human Rights and Law Enforcement* (op.cit., note 75), p. 13; and Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 8.

<sup>100</sup> Council of Europe, *The CPT Standards* (op.cit., note 29), § 38, p. 11.

<sup>101</sup> Council of Europe, *The CPT Standards* (op.cit., note 29), § 34, p. 10.

<sup>102</sup> See Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standards 6 and 8; and

custody, the identity of the officers involved, property inventory and meals provided.<sup>103</sup> The custody record should be communicated to the detainees or to their legal counsel.<sup>104</sup> Detainees should be monitored closely, particularly when they have not been through an intake and medical screening process.<sup>105</sup>

61. The police must provide for the safety, health, hygiene and appropriate nourishment of persons in the course of their custody. Police cells should be of a reasonable size, have adequate lighting and ventilation and be equipped with a suitable means of rest.<sup>106</sup>
62. The police should, to the extent possible, separate persons deprived of their liberty under suspicion of having committed a criminal offence from those deprived of their liberty for other reasons. There will ordinarily be a separation between men and women, as well as between adults and juveniles, unless they are members of the same family.<sup>107</sup>
63. Law enforcement officials, in their relations with persons in custody or detention, may not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.<sup>108</sup> (See more on the use of force below, §§ 67-74.)
64. Detainees have the right to be brought promptly before a judge or other officer authorized by the law to decide about the lawfulness of their detention.<sup>109</sup>

### **Maintaining Public Order and Safeguarding Democratic Freedoms**

65. Policing in a democratic society includes safeguarding the exercise of democratic activities. Therefore, police must respect and protect the rights of freedom of speech, freedom of expression, association, and movement, freedom from arbitrary arrest, detention and exile, and impartiality in the administration of law.<sup>110</sup> “In the event of unlawful but non-violent assemblies, law enforcement officials must avoid the use of force or, where this is not possible, limit its use to the minimum”.<sup>111</sup> (See also §§ 9 and 67-74.)
66. In dispersing violent assemblies, firearms may be used only when less dangerous means prove ineffective and when there is an imminent threat of death or of serious injury. “Firing indiscriminately into a violent crowd is never a legitimate or acceptable method of dispersing it.”<sup>112</sup> (See also §§ 67-74.)

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Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 54.

<sup>103</sup> See United Nations, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (1988), Art. 12; and

CALEA, *Standards for Law Enforcement Agencies* (op.cit., note 40), pp. 71-3 and 72-5.

<sup>104</sup> See United Nations, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (op.cit., note 103), Art. 12(1).

<sup>105</sup> See CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), p. 71-1.

<sup>106</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 6;

Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 14;

Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 7; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 56.

<sup>107</sup> See United Nations, *Standard Minimum Rules for the Treatment of Prisoners* (1955), Art. 8 (a) and (d);

United Nations, *Convention on the Rights of the Child* (op.cit., note 61), Art. 37(c);

United Nations, *Guidelines for the Protection of Juveniles Deprived of their Liberty* (1990), Art. 29;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 54; and

Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 8.

<sup>108</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 15.

<sup>109</sup> See Council of Europe, *European Convention on Human Rights* (op.cit., note 64), Art. 5;

CSCE, *Copenhagen Document* (op.cit., note 59), Art. 5.15; and

CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), p. 72-7.

<sup>110</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Arts. 7, 9, 19 and 20;

Council of Europe, *European Convention on Human Rights* (op.cit., note 64), Arts. 10 and 11;

Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 4.2;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 43; and

Bayley, *Democratizing the Police Abroad* (op.cit., note 4), p. 15.

<sup>111</sup> United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 13;

see also Amnesty International, *10 Basic Human Rights Standards for Law Enforcement Officials* (op.cit., note 10), Standard 4; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 37.

<sup>112</sup> United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 14;

see also ICRC, *Human Rights and Humanitarian Law in Professional Policing Concepts* (op.cit., note 74), p. 16.

## Use of Force

67. The police must have as their highest priority the respect for and the protection of life.<sup>113</sup> This principle has particular applications for the use of force by police.
68. While the use of force is often indispensable to proper policing – in preventing a crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders<sup>114</sup> police officers must be committed to the principle that the use of force must be considered as an exceptional measure, which must not be executed arbitrarily, but must be proportionate to the threat,<sup>115</sup> minimizing damage and injury, and used only to the extent required to achieve a legitimate objective.<sup>116</sup>
69. Law enforcement officials may not use firearms or lethal force against persons except in the following cases: to act in legitimate “self-defence or the defence of others against the imminent threat of death or serious injury; to prevent the perpetration of a particularly serious crime involving grave threat to life; to arrest a person presenting such a danger and resisting their authority; or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”<sup>117</sup>
70. If forced to use firearms, “law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident”<sup>118</sup>.
71. Law enforcement officials must ensure that assistance and medical aid are rendered to any injured or affected person at the earliest possible moment<sup>119</sup> and that relatives or close friends of the injured or affected person are notified at the earliest possible moment.<sup>120</sup>
72. Police officers should be trained in proficiency standards in the use of force, “alternatives to the use of force and firearms, including the peaceful settlement of conflict, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as technical means, with a view to limiting the use of force and firearms.”<sup>121</sup> Practical training should be as close to reality as possible. Only officers whose proficiency in the use of force has been tested and who demonstrate the required psychological skills should be authorized to carry guns.<sup>122</sup>
73. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.<sup>123</sup> (See also § 89.)

<sup>113</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 3; Council of Europe, *European Convention on Human Rights* (op.cit., note 64), Art. 10; United Nations, *Commissioner’s Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 3; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 35.

<sup>114</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 3(a).

<sup>115</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 3; and

Council of Europe, *European Convention on Human Rights* (op.cit., note 64), Art. 2.

<sup>116</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 5(a) and (b);

CSCE, *Moscow Document* (op.cit., note 61), Art. 21.1; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 37.

<sup>117</sup> United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 9.

<sup>118</sup> United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 10.

<sup>119</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 5(c).

<sup>120</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 5(d).

<sup>121</sup> United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Arts. 19 and 20.

<sup>122</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 19; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 29.

<sup>123</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 6; and

United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 3(c).

74. The disproportionate use of force has to be qualified as a criminal offence.<sup>124</sup> Instances of the use of force must therefore be investigated to determine whether they met the strict guidelines. (See also § 89.)

### ***Torture, Enforced Disappearance, and other Cruel or Degrading Treatment***

75. Torture or other cruel or degrading treatment cannot be practiced or tolerated, even in the case of ‘exceptional circumstances’<sup>125</sup> such as a state of war, or any other threat to national security. Therefore, when combating crime or terrorism, there should be no permission for or tolerance of obtaining evidence from detainees through the use of torture.<sup>126</sup>
76. “Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”<sup>127</sup>. (See also § 58.)
77. According to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, States shall ensure that all acts of torture are offences under their criminal laws.<sup>128</sup> (See also §§ 45 and 58.)
78. Furthermore, extrajudicial, arbitrary or summary executions and enforced disappearances are strictly forbidden.<sup>129</sup>
79. Alleged human rights violations must be reported and independently investigated. (See also §§ 83-94.)

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<sup>124</sup> See Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 27.

<sup>125</sup> United Nations, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), Art. 2.2.

<sup>126</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 5; Council of Europe, *European Convention on Human Rights* (op.cit., note 64), Art. 3; United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5), Art. 7; United Nations, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (op.cit., note 125), Preambular Paragraph; United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Arts. 2 and 5; CSCE, *Copenhagen Document* (op.cit., note 59), Art. 16.1 and 16.3; and Council of Europe, *Human Rights and the Fight Against Terrorism – The Council of Europe Guidelines* (Strasbourg, 2005).

<sup>127</sup> United Nations, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (op.cit., note 125), Art. 1.1;

see also Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 26.

<sup>128</sup> See United Nations, *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (op.cit., note 125), Art. 4(1).

<sup>129</sup> See United Nations, *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (1989); and United Nations, *International Convention for the Protection of All Persons from Enforced Disappearance* (2006).



## IV. Police Accountability and Transparency

### IV.1 Accountability and Control

80. While citizens voluntarily provide the police with their consent for applying the monopoly of force to maintain social control and enforce their civil, political and economic freedoms, democratic police services have the obligation to have their powers checked and controlled by the public through accountability processes.<sup>130</sup> (See also §§ 11, 107 and 117.)
81. Therefore, “efficient measures to ensure the integrity and proper performance of police staff”<sup>131</sup> need to be developed. (See also § 116.)
82. In Copenhagen in 1990, the OSCE participating States solemnly declared that the police must be under the supervision of, and accountable to, civil authorities.<sup>132</sup> (See also § 113.)

### ***Oversight Institutions***

83. Police accountability means that police activity – ranging from the behaviour of single police officers to the strategies for police operations, appointment procedures or budget management – is open to observation by a variety of oversight institutions.
84. Oversight institutions may include the executive (policy control, financial control and horizontal oversight by government agencies), the legislature (members of parliament, parliamentary commissions of enquiry), the judiciary,<sup>133</sup> as well as human rights commissions, civilian complaint review boards or independent ombudspersons. Furthermore, the media can play an important role in providing the public with information on police activities. Ultimately, democratic police services can be distinguished by their submission to, and acceptance of, outside supervision and examination and the degree of openness of these examinations.<sup>134</sup> (See also § 49.)
85. Most civilian oversight institutions deal with public complaints against the police. The degree to which they are involved in the complaints process, however, varies substantially. While some oversight organizations take responsibility for receiving and investigating complaints – sometimes only in cases of serious misconduct or if internal investigations appear faulty – others are limited to overseeing and reviewing investigations carried out by the law enforcement agencies themselves. Similarly, while some bodies have no influence on the punishment of misconduct, others can make recommendations on disciplinary action or even have the power to impose sanctions.<sup>135</sup>
86. Without external oversight mechanisms, police leaders would have the freedom not to investigate or punish misconduct, which could lead to ineffective internal control. External oversight mechanisms may also achieve greater impartiality (at least in the public’s view) in

<sup>130</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Preambular Paragraph 8(a); OSCE, *Code of Conduct on Politico-Military Aspects of Security* (op.cit., note 1), § 20; Lewis, *Complaints Against Police* (op.cit., note 24), p. 9; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 16 and 59; OSCE, *The Role of Community Policing* (op.cit., note 6), pp. 5 and 6; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 15., pp. 22f.

<sup>131</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 20; see also Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, § 4.

<sup>132</sup> CSCE, *Copenhagen Document* (op.cit., note 59), Art. 5.6.

<sup>133</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 60 and 62.

<sup>134</sup> See Bayley, *Democratizing the Police Abroad* (op.cit., note 4), pp. 14f;

Joel Miller, *Civilian Oversight of Policing. Lessons from the Literature* (Vera Institute of Justice, New York, 2002), pp. 3f.; Emma Phillips/Jennifer Trone, *Building Public Confidence in Police Through Civilian Oversight* (Vera Institute of Justice, New York, 2002), p. 7; and

Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 22.

<sup>135</sup> See Lewis, *Complaints Against Police* (op.cit., note 24), pp. 60-64;

Miller, *Civilian Oversight of Policing. Lessons from the Literature* (op.cit., note 133), p. 4;

Phillips/Trone, *Building Public Confidence in Police Through Civilian Oversight* (op.cit., note 134), p. 7; and

Charles T. Call, *Challenges in Police Reform: Promoting Effectiveness and Accountability* (International Peace Academy Policy Report, New York, 2003), p. 9.

the investigation of serious allegations against police officers. Furthermore, they may be better placed to encourage police officers to give evidence against other officers, particularly against supervisors.

87. Nevertheless, external oversight mechanisms have to be complemented by internal control and oversight, because in a number of instances internal investigation mechanisms might have structural advantages such as a greater amount of resources, more available data (police archives; witness reports; police officer statements), and better knowledge of the police environment. Furthermore, these structural advantages may inspire more confidence among accused officers that the enquiry will be fairly conducted, increasing their willingness to co-operate with investigators. Either way, police agencies must investigate all allegations of misconduct to ensure the integrity of their operations and personnel. Minor offences might be investigated by an immediate superior, while more serious offences need to be investigated by police bodies outside the immediate chain of command, such as internal investigation units, or ad-hoc disciplinary committees composed of senior police officers,<sup>136</sup> or even by external civilian oversight bodies, particularly when it comes to investigations against high-ranking officers. Information on the procedures to be followed after registering complaints should be made available to the public to motivate them to file justified complaints. Even anonymous complaints have to be investigated, and, although these may be difficult to investigate, the agency should carefully review each complaint for validation before discrediting or ignoring it.<sup>137</sup> Investigation and disciplinary procedures must carefully balance the rights of the citizen and the rights of the officer.<sup>138</sup>
88. In any case, some form of civilian oversight and transparent handling of the results of investigations are an important way to enhance public confidence in the police and to achieve legitimacy with the community. Public trust in the police can easily be destroyed by improper police action, particularly when follow-up investigations or administrative action are not prompt, thorough, and/or appropriate.
89. Governments and law enforcement authorities should establish effective reporting and review procedures that are activated automatically, every time injury or death is caused by the use of force, or when firearms are used by law enforcement officials.<sup>139</sup> (See also §§ 73 and 74.)
90. If police officers report cases of police misconduct to their superiors, as demanded by the UN Code of Conduct, and notice that such reports are not followed by investigations, they may report the cases of misconduct outside the chain of command.<sup>140</sup> (See also § 13.)
91. Complaint data should be collected and analyzed by the police together with external expert groups to identify the underlying causes of misconduct, and to address these causes directly. This problem-oriented approach would make it possible to identify those officers who repeatedly attract complaints and to apply remedies such as counselling, training, and changes in assignment. Furthermore, complaints data could be used to identify police policies, tactics and trends in behaviour that fail to meet requirements of national regulations and international standards, which carry the potential for significant numbers of complaints and therefore need to be reviewed and/or changed.<sup>141</sup>

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<sup>136</sup> See Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 52.

<sup>137</sup> See Miller, *Civilian Oversight of Policing* (op.cit., note 133), p. 3; and CALEA, *Standards for Law Enforcement Agencies* (op.cit., note 40), pp. 52-1 and 52-2.

<sup>138</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 6; and Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 24.

<sup>139</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Arts. 6 and 22.

<sup>140</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 6; and United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 8(a) and (d).

<sup>141</sup> See Phillips/Trone, *Building Public Confidence in Police Through Civilian Oversight* (op.cit., 134), p. 6; Miller, *Civilian Oversight of Policing* (op.cit., note 133), p. 5; Bruce/Neild, *The Police That We Want* (op.cit., note 5), pp. 38f.; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 16, p. 25.

92. In addition to addressing issues of police misconduct, the introduction of police inspection services is an essential means of evaluating the general quality of police operations, ensuring that the agency's policy goals are pursued, identifying the needs for additional resources and changes of policies and ensuring that control is maintained throughout the police service.<sup>142</sup>
93. In order to fulfil their mandate, external and internal oversight bodies need sufficient resources, legal powers and independence from executive influence.<sup>143</sup> Closely related to these factors, oversight institutions need political support from governments, parliaments and police leadership. Moreover, public pressure and the involvement of the media can play a significant role in supporting their task.
94. Furthermore, civilian oversight bodies not only need political support and resources but also protection by law to conduct their independent investigations. This protection is provided by the UN principles relating to the status and functioning of national institutions for the protection and promotion of human rights.<sup>144</sup>

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<sup>142</sup> See CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), p. 53-1.

<sup>143</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 61.

<sup>144</sup> See United Nations, *National institutions for the promotion and protection of human rights* (A/RES/48/134, of 20 December 1993), Annex.

## IV.2 Police-Public Partnership

95. A central feature of democratic policing is the notion of policing with the consent of the people. Since the police cannot assume that they always act with the consent of (all) citizens, they must constantly work to ensure that the public supports their work.<sup>145</sup> A prerequisite for gaining public support is providing for transparency of police operations and cultivating communication and mutual understanding between the public and the police.<sup>146</sup> Without consulting the public, the police would be imposing their services rather than be serving in a responsive manner.<sup>147</sup> Measures to achieve transparency and communication include the public dissemination of reports on crime and police operations, the establishment of mechanisms for the public to request police service, the creation of forums for open discussion of crime and safety problems, and the introduction of community-based policing.

### ***Mechanisms for Requesting Police Service***

96. Interaction with the community implies that the police are accessible to the public where and when needed. The police must have a certain level of readiness and sufficient resources that they can adequately respond to public needs when it comes to accidents, crimes and other emergencies. The most immediate means of communication to provide protection of life and property are emergency telephone lines that citizens may use to call for assistance. The way these telephone lines are used – whether only in desperate need, or also for trivial reasons when there is a need for authoritative intervention – is an indicator of the relationship between the police and citizens<sup>148</sup> and of the extent to which democratic policing practices have been adopted.<sup>149</sup> (See also §§ 6 and 52.)

### ***Police-Media Relations***

97. The most effective and efficient way of complying with the demand for transparency is by informing the public through the media. However, policies have to be developed that govern what information should be released, for example, information that raises public confidence or gives a feeling of safety, or general facts about the objectives of the police and how the police work. Information that must not be publicized includes that which would compromise police investigations and confidential information relevant for maintaining public security or the presumption of innocence.<sup>150</sup> Sound co-operation with the media also requires guidelines for media contacts, clearly defined roles for spokespersons and media training for officers.<sup>151</sup> (See also §§ 48, 49 and 103.)

### ***Public Dissemination of Reports***

98. Public information reports include crime statistics, clear-up rates for crimes, public security perceptions, reports on human rights records of the police or corruption cases within the police and other public oversight reports. These reports describe police activities, the security situation and the public's perception of safety. They allow for public evaluation of police

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<sup>145</sup> See EPPHR, *NGOs and Police* (op.cit., note 61), p. 9.

<sup>146</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 18 and 62.

<sup>147</sup> See Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 27.

<sup>148</sup> See David H. Bayley, "The Contemporary Practices of Policing: A Comparative View", in: James Burack et. al., *Civilian Police and Multidimensional Peacekeeping – A Workshop Series. A Role for Democratic Policing* (National Institute of Justice, Washington, 1999), p. 4; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 18.

<sup>149</sup> See Lewis/Marks, "Overview" (op.cit., note 15), p. 1.

<sup>150</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 4;

Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 15;

Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 11, 17 and 22;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 19;

Council of Europe, *Partnership in Crime Prevention* (op.cit., note 5), Art. 32;

Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 24; and

CALEA, *Standards for Law Enforcement Agencies* (op.cit., note 40), p. 54-1.

<sup>151</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 19.

performance by assessing the level of divergence of policing results and actions from laws and written policies, as well as the cost-efficiency of those activities.<sup>152</sup>

### **Creation of Forums for Open Discussions**

99. Effective policing must be based on good co-operation and trust between the police and the public. Otherwise the police will not receive the information (intelligence, criminal complaint files/ reports of crime, witness statements) they need to do their job. In addition to the one-way instruments of communication for conveying information mentioned above, interactive community outreach programmes, such as the creation of formal or informal forums for open discussions between the police and representatives of all communities, are particularly valuable for eliciting the views of the public and for promoting the exchange of views and co-operation. This can lead to communities getting involved in crime prevention programmes, including by developing problem-solving coalitions, and to the development of a sense of mutual responsibility for enhancing public safety. In addition to the support of the residents in local communities, the police will need the support of local authorities to be successful in their work. In certain cases, other departments may be better suited than the police to solve social problems in a community.<sup>153</sup>
100. The idea of creating such forums for open discussion is derived from the community-based policing approach, which aims at fostering co-operation between the police and the population in identifying and resolving issues of concern to the citizens, for example, problems of crime, social disorder or the overall quality of life in the community.<sup>154</sup>
101. Examples of such interactive means of communication are community advisory boards, joint police-community workshops, public meetings, open police days or community contact points at police stations.<sup>155</sup> All these forums should be open to representatives of broad sectors of communities.
102. These interactive forums help to educate the public regarding official procedures and policies, as well as the community's rights and responsibilities. They permit police actions to be discussed (including sharing of personal experiences by police officers and members of the public) and empower the population to actively engage in the issues that relate to their sense of safety and security and to give their input regarding their concerns and how they think their neighbourhood should be policed – for example, where and when police patrols are necessary.<sup>156</sup> In these forums patterns of crime and problems of disorder can be identified and lists of common concerns can be compiled, thus giving the police the opportunity to deal with these problems proactively.<sup>157</sup>
103. In addition to interactive public forums, another important instrument for obtaining the views of the public is the conducting of public surveys (see public dissemination of reports).
104. Community police forums will be most effective if the police – complementing similar efforts by civil society groups – explain the overall purpose and proper functioning of such

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<sup>152</sup> See United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina*, (op.cit., note 5), Principle 4;

Bayley, *Democratizing the Police Abroad* (op.cit., note 4), p. 15.

<sup>153</sup> See Cees de Rover, *To Serve and Protect. Human Rights and Humanitarian Law for Police and Security Services* (International Committee of the Red Cross, Geneva, 1998), p. 171;

Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 9;

OSCE, *The Role of Community Policing* (op.cit., note 6), p. 4;

United Nations, "Guidelines for the Prevention of Crime" (op.cit., note 5), Arts. 5, 9, 15, 16, 17(d) and (e), and 21(a);

Council of Europe, *Partnership in Crime Prevention* (op.cit., note 5); and

HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 12, p. 18.

<sup>154</sup> See South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), *Philosophy and Principles of Community-Based Policing* (Belgrade, 2006), p. 3.

<sup>155</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 12, p. 19.

<sup>156</sup> See Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 30;

Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 76; and

Anita Khashu/Robin Busch/Zainab Latif/Francesca Levy, *Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project* (Vera Institute of Justice, New York, 2005), p. 16.

<sup>157</sup> See Andrew Sanders/Richard Young, "Police Powers", in: Tim Newburn, *Handbook of Policing* (Portland, 2005), p. 237; and Khashu et. al. 2005, *Building Strong Police-Immigrant Community Relations* (op.cit., note 156), p. 7.

institutions to the local population.<sup>158</sup> Otherwise, false expectations and inefficient use of such forums will lead to frustration and a loss of hard-earned confidence on all sides.

### **Community-Based Policing Projects**

105. Community outreach activities designed to reduce crime and promote public safety may result in community-based policing projects.
106. There is no single universal formula for community-based policing and any community-based policing programmes must be formulated and implemented taking into account local political and cultural environments.<sup>159</sup>
107. Community-based policing approaches should provide police officers with the skills and structure to respond locally and to determine policing priorities in partnership with the community. Dedicated community policing officers/community policing teams should be assigned to permanent neighbourhood patrol in specific geographical areas, serving as contact points as well as guarantors for law and order. They need to remain in the same area for several years to establish trust. Where practical, police officers should patrol on foot because this allows for much better interaction with citizens as opposed to driving around in cars. They need special communication and conflict resolution skills (including mediation skills), because neighbourhoods within the communities can often be split with respect to the legitimacy of particular lifestyles and their views on appropriate forms of policing.<sup>160</sup> They should be empowered by their superiors to solve local issues in partnership with the community they serve.

### **Outreach to Minority Communities**

108. What is true for co-operation with the public in general also holds true, in particular, for co-operation with minority groups and proves to pose an even more challenging task for the police. Not only do the police face structural challenges to their efforts to engage with these minorities – such as the diversity of languages, religions, customs or other cultural characteristics – but minority groups often are reluctant to co-operate with the police because of distrust, particularly if they have previously been subjected to regular police abuse.<sup>161</sup> In the case of immigrants these experiences are sometimes ‘imported’ from abroad. Furthermore these communities often prefer traditional ways of resolving disputes within the community.<sup>162</sup> (Re-)building the trust of these minorities in the police is essential if such groups are to abandon parallel security structures.

### **Co-operation with Civil Society Groups**

109. Special community outreach projects are necessary to reach minority communities. In these projects, police should co-operate with community-based social services, human rights and other NGOs and religious organizations which play a critical role as part of information-sharing networks.<sup>163</sup> The challenge of selecting the most appropriate representative bodies can be met by using selection criteria such as the NGOs’ stability, accountability and authentic representation of their constituencies.<sup>164</sup>
110. When reaching out to specific parts of the community, it is important for the police not to convey the impression that they will treat different groups differently, giving preference to

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<sup>158</sup> United Nations, “Guidelines for the Prevention of Crime” (op.cit., note 5), Art. 17 (c), (d) and (e), and 19.

<sup>159</sup> See OSCE, *The Role of Community Policing* (op.cit., note 6), p. 3.

<sup>160</sup> See Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing for Northern Ireland* (Belfast, 1999), p. 42;

OSCE, *The Role of Community Policing* (op.cit., note 6), p. 10; and SEESAC, *Philosophy and Principles of Community-Based Policing* (op.cit., note 154), p. 5.

<sup>161</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 12, p. 18.

<sup>162</sup> Khashu et. al., *Building Strong Police-Immigrant Community Relations* (op.cit., note 156), p. 3.

<sup>163</sup> See United Nations, “Guidelines for the Prevention of Crime” (op.cit., note 5), Arts. 9, 15, 16, 17(d);

Council of Europe, *Partnership in Crime Prevention* (op.cit., note 5); and

EPPHR, *NGOs and Police* (op.cit., note 61), p. 24.

<sup>164</sup> See EPPHR, *NGOs and Police* (op.cit., note 61), p. 24.

some and thus losing their impartiality, particularly when dealing with conflicts between the communities.

111. Cultivating close connections with communities can result in ethical dilemmas for police officers when they are offered gratuities, which could easily be interpreted as crossing the blurred line to corruption.<sup>165</sup> (See also § 27.)
112. While community-based policing focuses on preventing or combating a wide spectrum of problems, and addresses all parts of the community, examples of specific community-based policing projects are neighbourhood watches, environmental clean-ups, or school visits and the organization of youth camps to build trust between children and the police, and between children from different ethnic/cultural/social backgrounds. Topics to be dealt with in the latter can be traffic safety, anti-drug education, or dealing with violence and other forms of unacceptable behaviour, thereby reducing crime and victimization amongst young people.<sup>166</sup>

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<sup>165</sup> See Newburn, *Understanding and Preventing Police Corruption* (op.cit., note 48), p. 47; and Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 20.

<sup>166</sup> United Nations, "Guidelines for the Prevention of Crime" (op.cit., note 5), Art. 6 (a), (b) and (c).

## V. Police Organization and Management Issues

### *Chain of Command and Operational Autonomy*

113. The police are subject to the effective direction and control of the appropriate civil authorities (see also § 82).<sup>167</sup> “The participating States consider the democratic political control of [...] the police to be an indispensable element of stability and security.”<sup>168</sup> There must, however, be a separation, with a representative of the Government having the responsibility for policy setting, oversight and review, while the police leadership exercises competency and control over operational management.<sup>169</sup>
114. The police organization must provide for a clear chain of command and allotment of competencies within the police. It should always be possible to determine who is ultimately responsible for an act or omission by police personnel.<sup>170</sup>
115. Senior police officers should be given sufficient operational responsibility to be able to make operational decisions autonomously. These decisions must be in accordance with the law and subject to review by legislative, executive and judicial powers.<sup>171</sup> Political authorities maintain the right to examine the procedural correctness of police actions as well as the way their policy has been implemented.<sup>172</sup>
116. While democratic governments often have a role in appointing the most senior police leaders, other appointments and promotions (see also §§ 128 and 137) should be regarded as an internal police matter;<sup>173</sup> where the governing authorities only have the right to question and confirm transparent selection results.<sup>174</sup> Additional transparency can be achieved by involving service commissions or civilian oversight bodies.<sup>175</sup>
117. Decentralization and deconcentration of decision-making and resource management is particularly important in the context of community-based policing. (See also §§ 11, 80 and 107.)

### *Supervision*

118. Since senior officers should act as role models for junior officers, they should demonstrate compliance with required codes of conduct and policing standards in their everyday work.<sup>176</sup> To uphold the values and ethics of police work, these values must be articulated regularly and consistently to ensure that they are clearly understood throughout the organization.<sup>177</sup> This is particularly important with respect to legal rules which leave room for interpretation in order to avoid the abuse of discretionary powers.<sup>178</sup> (See also § 21.)
119. Supervisory practice must promote an ethos of empowerment, support and personal development of individuals.

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<sup>167</sup> See CSCE, *Moscow Document* (op.cit., note 61), Art. 25.1.

<sup>168</sup> OSCE, *Code of Conduct on Politico-Military Aspects of Security* (op.cit., note 1), § 20.

<sup>169</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 13;

Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 22; and

Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 27.

<sup>170</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 4; and

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 17.

<sup>171</sup> See *European Code of Police Ethics* (op.cit., note 5), §§ 15 and 60;

Jones, “The Governance and Accountability of Policing” (op.cit., note 10), p. 613; and

Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 25.

<sup>172</sup> See Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 24; and

Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 42.

<sup>173</sup> See Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 24.

<sup>174</sup> See Harris, *The Role of Capacity-Building in Police Reform* (op.cit., note 50), p. 27.

<sup>175</sup> See Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 40.

<sup>176</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 11, p. 17.

<sup>177</sup> See Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 38.

<sup>178</sup> See Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 7; and Bowling/Phillips, “Policing Ethnic Minority Communities” (op.cit., note 65), p. 535.



120. Police agencies must have systems of supervision in place to assess the performance of their police officers. Democratic policing requires ongoing quality control of the service delivered to the public. Quality may be measured directly as compliance with a standard, indirectly by customer/community appreciation or through its impact. Total Quality Management (TQM) models seek to continuously improve administrative processes using analytical tools and teamwork involving all police employees and focusing on procedures that are instrumental in promoting quality.<sup>179</sup>
121. Supervisors must take responsibility for the performance of officers and must verify compliance with codes of conduct and human rights standards through regular unannounced and independent inspections.<sup>180</sup> (See also §§ 87 and 92.)
122. Senior officials shall also be held responsible if they know, or should have known, that police officers under their command are violating human rights and/or specific regulations or rules governing the execution of police duties.<sup>181</sup>
123. The supervisory reporting system and routines to carry out the analysis of these reports should help identify trends, improve training and employee safety, and provide timely information for the agency addressing issues of concern with the public. Early and accurate reporting helps establish and maintain agency credibility.<sup>182</sup>

### **Composition of the Police**

124. In a world of growing ethnic and cultural diversity within States and rising tensions between different groups, the role of the police is crucial in maintaining the very fabric of our societies. They must therefore act with unquestionable fairness towards all groups.<sup>183</sup> Furthermore, in order to enjoy the confidence of the entire population, the police must be representative of the community as a whole.<sup>184</sup>
125. The percentage of women in the police is generally not proportionate to the composition of the population, where women often are the majority. Women are particularly rare at the strategic, managerial and policy-making levels. Therefore, there is the need for an increase in the recruitment of women and for their integration at all levels in all agencies.<sup>185</sup> This not merely to implement international legal obligations (of equality under the law) but rather to significantly improve the performance of the police. (See also § 129.)
126. Confidence and trust in the police may be particularly low among minority populations who have previously experienced biased, and possibly repressive, treatment by the police (e.g. not receiving adequate protection, being criminalized). In order not to (further) strain majority-minority relations,<sup>186</sup> and to avoid the development of parallel structures in the society with the potential of creating security vacuums in the minority parts of society, the police must firmly and consistently tackle crime motivated by ethnic hatred. Police-minority relations must be cultivated and co-operation and mutual understanding strengthened.<sup>187</sup>

<sup>179</sup> See Common Assessment Framework, *Improving an Organization Through Self-Assessment* (2006), pp. 50f.

<sup>180</sup> See Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 20; Council of Europe, *The CPT Standards* (op.cit., note 29), § 50, p. 16; and Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 29.

<sup>181</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 24.

<sup>182</sup> See CALEA, *Standards for Law Enforcement Agencies* (op.cit.; note 40), p. 1-7.

<sup>183</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Introduction; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 18.

<sup>184</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Preambular Paragraph, 8(a); OSCE, *Charter for European Security* (op.cit., note 2), Art. 44;

<sup>185</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 25.

<sup>186</sup> See de Rover, *To Serve and Protect* (op.cit., note 153) p. 306; OSCE, *Study on Policing in the Federal Republic of Yugoslavia* (Belgrade, 2001), p. 20; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 25.

<sup>187</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Introduction; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 18.

<sup>187</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Preambular Paragraph, 8(a); OSCE, *Charter for European Security* (op.cit., note 2), Art. 44; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 25 and 30.

127. One important step to win the trust of minority communities is to integrate them into the police throughout all ranks and functions. Their integration not only serves as a confidence-building measure, but also provides the police with a range of knowledge and skills that are required for working in a multicultural environment.<sup>188</sup> (See also § 129.)

### **Recruitment**

128. The recruitment, hiring, assignment and promotion policies of police agencies must be free of any form of unlawful discrimination.<sup>189</sup> (See also §§ 116 and 137.)

129. Recruitment policies should ensure adequate inclusion of women and national minorities in the police.<sup>190</sup> While any recruitment campaign must be directed at the whole society, specific steps are usually required in order to raise the percentage of women and minorities in the police.

130. Statistical targets should be set for increasing the representation of women and minorities and in extraordinary circumstances, and for a limited time only, special recruitment measures might be considered to quickly redress an imbalance.<sup>191</sup>

131. Job descriptions and selection criteria, however, must not be targeted at women and minority groups and should be applicable to all parts and communities of the society. The selection and promotion of police officers must be transparent and based on their knowledge, skills, attitudes and good character (no record of convictions for serious crimes), but not on their affiliation to specific (political) groups. To lower the standards for minority groups or to prefer applicants proposed by specific (political) groups, will only damage their credibility. Educational disadvantages of certain minorities, such as language problems, might be compensated for by pre-service training.<sup>192</sup>

132. The recruitment and integration of women and national minorities is also required to prepare the police environment for cultural diversity. A culturally neutral environment must be created in which women, men and all communities feel comfortable and measures should be introduced to ensure that all police officers are accepted and treated equally within the police organization. Therefore, any sexually offensive symbols and publications, and linkages to specific religious or national symbols related to one side in an ethnic conflict should be removed from police facilities.<sup>193</sup>

133. Existing staff as well as new officers should be made aware of acceptable standards of behaviour in a gender-equal and multicultural service. Effective internal complaint mechanisms must be in place, and women and minorities should be encouraged by their superiors to make complaints when they experience discrimination or harassment.<sup>194</sup>

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<sup>188</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Art. 3.7; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 25; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 4, pp. 10f.

<sup>189</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Art. 21(2); United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination* (op.cit., note 60), Preambular Paragraphs 5, 8, 9 and 10, Arts. 2(1)(e), 2(2) and 5(e); United Nations, *International Covenant on Civil and Political Rights* (op.cit., note 5), Arts. 2, 3 and 26; CSCE, *Final Act* (op.cit., note 21), Art. VII. p. 6; Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, § 2; United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Preamble Paragraph, 8(a); United Nations, *Convention on the Elimination of All Forms of Discrimination against Women* (op.cit., note 60); Preambular Paragraphs 3, 9, 14, and Art. 2 (d)-(f), 3, 5(a), 7 (b), 11 (b) and (c); and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 22 and 25.

<sup>190</sup> See OSCE, *The Role of Community Policing* (op.cit., note 6), p. 10.

<sup>191</sup> See European Platform for Policing and Human Rights (EPPHR); *The Recruitment and Retention of Police Officers from Minority Communities: Points to Consider* (2004), p. 5;

HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 5, p. 11.

<sup>192</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Arts. 2.5 and 2.6; Council of Europe, *Codes of Conduct for Public Officials* (op.cit., note 9), Art. 24; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 22 and 24;

EPPHR; *The Recruitment and Retention of Police Officers from Minority Communities* (op.cit., note 191), p. 5; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 6, p. 12.

<sup>193</sup> See EPPHR, *The Recruitment and Retention of Police Officers from Minority Communities* (op.cit., note 189), p. 3; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 7, p. 12.

<sup>194</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Art. 2.13; and

## **Retention**

134. After recruitment and training, officers should be encouraged to stay in the police. Important issues affecting their decision to stay will be the working environment, their appointments, and their future career opportunities.<sup>195</sup>
135. As with respect to training facilities, the working environment must be culturally neutral and all officers must be treated equally. The establishment of staff associations, mentors and oversight institutions helps to create and maintain such environments.<sup>196</sup>
136. With respect to appointments, the possibility of the isolation of female or minority officers must be avoided. Since the police also have the task of being role models for society, the multicultural character of the police should be visible in all units and regions, not only in specifically multicultural ones.<sup>197</sup> Police officers should be encouraged to acquire experience through working in mixed communities other than their own.<sup>198</sup>

## **Promotion and Career Development**

137. With respect to promotions, female officers and officers belonging to minorities must receive the same opportunities for additional education making them eligible for higher ranking positions. The process of promotion itself must be transparent and based solely on the officers' experience and merit (assessed by using written tests and oral interviews as well as assessment centres), and not on their affiliation with particular communities or political groups.<sup>199</sup> (See also § 117.)
138. There should be clear policies and political support (by political and police leadership) with respect to recruitment of women and minorities, including professional standards for treating minorities<sup>200</sup> as well as the readiness on behalf of the minority communities to integrate themselves into the State authorities. While top-down direction for integrating women and minorities is important, real implementation must be at the local level.<sup>201</sup> Partnerships with women and minority organizations on the local level can be of great help.<sup>202</sup> (See also §§ 109-110.)

## **Rights of Police Personnel**

139. "Police staff shall as a rule enjoy the same civil and political rights as other citizens. Restrictions to these rights may only be made when they are necessary for the exercise of the functions of the police in a democratic society, in accordance with the law, and in conformity with the Universal Declaration of Human Rights"<sup>203</sup>. (See also §§ 9 and 12.)
140. "Police staff shall enjoy social and economic rights, as public servants, to the fullest extent possible."<sup>204</sup> They shall have the right to organize or to participate in representative organizations. They should also be entitled to remuneration that is adequate to encourage the high level of professional standards expected from them. Furthermore, they should receive social security coverage, and be provided with special health and security measures,

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<sup>195</sup> HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 7, p. 12.

See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, § 4.

<sup>196</sup> See OSCE, *The Role of Community Policing* (op.cit., note 6), p. 11;

EPPHR; *The Recruitment and Retention of Police Officers from Minority Communities* (op.cit., note 191), p. 8; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 7, p. 11.

<sup>197</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 4, p. 10.

<sup>198</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 7, p. 14.

<sup>199</sup> See United Nations, *Convention on the Elimination of All Forms of Discrimination against Women* (op.cit., note 60); Art. 11 (b) and (c); and

EPPHR; *The Recruitment and Retention of Police Officers from Minority Communities* (op.cit., note 191), p. 7.

<sup>200</sup> See OSCE, *The Role of Community Policing* (op.cit., note 6), p. 42.

<sup>201</sup> See OSCE, *The Role of Community Policing* (op.cit., note 6), p. 42.

<sup>202</sup> See Foundation 'Policing for a Multi-Ethnic Society', *Rotterdam Charter* (op.cit., note 13), Introduction.

<sup>203</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 31.

<sup>204</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 32.

including equipment and training, and operational procedures, taking into account the particular character of police work.<sup>205</sup>

141. Officers who act according to the law and professional codes are “entitled to the active moral and physical support of the community”<sup>206</sup> they serve and to be treated with respect by their superiors and colleagues. The human factor is fundamental to achieving and maintaining a democratic police. Therefore, the status of police officers should be such that it provides them with recognition by and support of the community.<sup>207</sup>
142. Police officers shall not face administrative sanctions or other penalties if they report a violation of the police code of conduct by other officers that has occurred or is about to occur.<sup>208</sup> Officers who have filed a report must be protected against any acts of retaliation.
143. “Disciplinary measures brought against police staff shall be subject to review by an independent body or a court.”<sup>209</sup> As ordinary citizens, police officers have the right to defence, fair and due trial and to be silent in criminal proceedings against them.<sup>210</sup> “Public authorities shall support police personnel who are subject to ill-founded accusations concerning their duties.”<sup>211</sup>

### **Equipment**

144. Governments should provide police services with suitable and appropriate equipment necessary to effectively conduct police work.<sup>212</sup>
145. Police agencies should be provided with non-lethal and defensive alternatives to firearms, such as non-lethal incapacitating weapons, and passive protective equipment such as shields, helmets, bulletproof vests and armoured means of transportation.<sup>213</sup>

### **Training**

146. In general, training aims to expand the trainees’ knowledge and to improve their skills. Modern learning and training programmes include elements of both trainer-centred and student-centred learning. The trainer-centred or didactic training approach focuses on presenting knowledge and information from trainer to student by instructing or lecturing, keeping the student in a rather passive role. The student-centred learning approach puts the focus of training upon the needs of the students, involves their active participation and follows an experiential learning-cycle. This includes referring to previous experience and using case studies based on real life incidents. This approach is based on the assumption that adults relate their learning to what they already know and that they learn best if they are provided with examples which they can understand from their own experience.<sup>214</sup> Changing

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<sup>205</sup> See United Nations, *Universal Declaration of Human Rights* (op.cit., note 5), Arts. 22, 23(3) and (4); Council of Europe, *European Social Charter* (1961), Arts. 4.1, 5, 12, and 13; Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, §§ 3, 6, 7 and 8; Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32) Art. 4; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 32.

<sup>206</sup> Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 1b.

<sup>207</sup> See Hungarian Helsinki Committee, *The Budapest Recommendations* (op.cit., note 32), Art. 4.

<sup>208</sup> See United Nations, *Code of Conduct for Law Enforcement Officials* (op.cit., note 5), Art. 8(b).

<sup>209</sup> CoE Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 33.

<sup>210</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, § 11;

Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 33 and 34; and

Bruce/Neild, *The Police That We Want* (op.cit., note 5), p. 42.

<sup>211</sup> Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 34.

<sup>212</sup> See Council of Europe, “*Special Investigation Techniques*” in *Relation to Serious Crimes including Acts of Terrorism* (op.cit., note 83), Arts. 8-11.

<sup>213</sup> See United Nations, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (op.cit., note 29), Art. 2.

<sup>214</sup> See Malcolm S. Knowles, *The Modern Practice of Adult Education: From Pedagogy to Andragogy* (revised and updated), (Association Press, New York, 1980);

Stephen Lieb, *Principles of Adult Learning* (1991);

Marcia L. Conner, *Learning: The Critical Technology. A Whitepaper on Adult Education in the Information Age* (1995), pp. 14-18; and

Marcia L. Conner, *How Adults Learn. Ageless Learner* (2004).

- values and attitudes, including stereotypes, which are often deeply rooted among adults, is particularly challenging and requires skilful trainers and long-term processes.<sup>215</sup>
147. Initial and continuing in-service training and education should be made available in all areas of police activities at regular intervals and for all ranks of the police. The training must reflect the principles of democratic policing.<sup>216</sup> This means, in an operational context, that the police should be trained in applying the law, police ethics (including those related to corruption), codes of conduct and human rights standards.<sup>217</sup> During the training it is, however, not enough to talk about ethical principles as abstract entities. They need to be tested against real and concrete policing dilemmas in the form, for example, of role plays.
  148. Training needs must be identified by operational personnel. For all kinds of training, review procedures must exist.
  149. Training should not only ensure that officers are fully aware of the sanctions that will be applied if they break the rules, but also that democratic values and international standards in policing and human rights are an essential part of the beliefs of every professional police officer.
  150. Training for policing in multicultural environments/communities should focus on issues such as cultural and religious awareness, mediation and community relation skills, problem-solving and partnership approaches, language training, and training in human rights.<sup>218</sup>
  151. In order to raise the awareness of police officers of their integral role in the community they serve, civilian trainers should be included in the training staff of police academies. Some lectures might even be delivered at public or private universities, where police cadets would be learning together with full- or part-time students. Subjects might include constitutional law, criminal matters and human rights.<sup>219</sup>

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<sup>215</sup> See HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 8, p. 15.

<sup>216</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part B, § 3; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), §§ 26, 28-30; Travis, *Policing in Transition* (op.cit., note 4), p. 3.

<sup>217</sup> See Council of Europe, *Declaration on the Police* (op.cit., note 5), Part A, § 13; CSCE, *Copenhagen Document* (op.cit., note 60), Art. 16.4; and United Nations, *Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina* (op.cit., note 5), Principle 1.

<sup>218</sup> See Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland* (op.cit., note 160), p. 94; Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 30; OSCE, *The Role of Community Policing* (op.cit., note 6), p. 9; and HCNM, *Recommendations on Policing in Multi-Ethnic Societies* (op.cit., note 13), Rec. 8, p. 14.

<sup>219</sup> See Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland* (op.cit., note 160), p. 93; and Council of Europe, *European Code of Police Ethics* (op.cit., note 5), § 27.

## VI. Conclusions

152. While being under enormous pressure throughout the OSCE area to counter the rising tide of organized crime and the new threats to international and national security, including those resulting from terrorism, the police are also required to maintain tranquillity, to prevent and solve local crimes and enhance the quality of life by promoting a sense of security.
153. While pursuing their objectives, the police must operate in accordance with domestic and international law and respect human rights at all times. States have to ensure that domestic legislation does not contradict international laws and human rights standards.
154. States must also provide the legislative and structural requirements for functional relationships between the police, administrative authorities, other elements of the criminal justice system as well as the communities the police work in, in order to ensure effective, efficient and fair policing.
155. Furthermore, democratic policing requires that the police be accountable for their actions to the law, the State and the whole public they serve. Key requirements for accountability are the maintenance of effective and efficient instruments of internal and external oversight, as well as transparency and the cultivation of a co-operative police- public partnership.
156. Even if police become “superbly professional, technically proficient and with sparkling integrity, they would still lack legitimacy without negotiating their mission, strategies and tactics with local and national communities.”<sup>220</sup>
157. Moreover, policing must be predictable. It must be clear what the public can expect from the police, and these expectations should be realistic.
158. Furthermore, public satisfaction will be significantly influenced by the way the police behave in their interaction with the public, for example, whether they meet the public with respect and politeness and whether they take requests for help seriously and provide a professional response.
159. The police must send a strong signal to all within and outside the organization that – because of their high professional standards – they “will perform well, be open and approachable, and not tolerate the abuse of power, corruption, neglect of duty ... or any misconduct”<sup>221</sup>, nor will they cover any acts of wrongdoing.
160. This signal, moreover, has to be sent by every single officer. The police must therefore ensure that they invest in appropriate training and education for their personnel and that the performance of every single officer is evaluated regularly.
161. Effective and efficient international co-operation, which promotes the principles of democratic policing, will diminish the threats to international and domestic security and will enhance the public’s perception of safety. Hopefully the Guidebook will provide a conceptual basis for such endeavours.

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<sup>220</sup> Neyroud, “Policing and Ethics” (op.cit., note 47), p. 599.

<sup>221</sup> Commonwealth Human Rights Initiative, *Police Accountability* (op.cit., note 5), p. 79.

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# INDEX

---

## A

Accountability · 5, 8, 10, 11, 12, 23, 24, 25, 28, 29, 31, 37  
Analysis · 32  
Appointment · 9, 24  
Assistance · 8, 10, 11, 19, 20, 22, 27  
    assist · 5, 8, 10, 11, 17, 19, 20, 22, 27  
Authority · 8, 11, 13, 14, 15, 18, 19, 22, 24, 25, 28, 31, 34, 35, 37  
    Government · 5, 8, 10  
Awareness · 36

---

## B

Behaviour · 9, 17, 22, 24, 25, 30, 33

---

## C

Career · 34  
Chain of command · 9, 25, 31  
Code of Conduct · 5, 10, 12, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 27, 31, 32, 33, 35  
Commitments · 5  
Communication · 9, 27, 28, 29  
Community · 10, 15, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36  
    Communities · 5, 10, 16, 17, 28, 29, 30, 31, 33, 34, 36, 37  
Community-based policing · 27, 28, 29, 30, 31  
Competencies · 31  
Complaint · 12, 14, 16, 24, 25, 28, 33  
Composition · 9, 11, 32  
Confession · 18, 20, 23  
Confidence · 10, 11, 24, 25, 29, 32, 33  
Confidentiality · 18  
Consent · 9, 23, 24, 27  
Control · 5, 10, 18, 19, 24, 26, 28, 31, 32  
    internal · 18, 24, 25  
*Co-operation* · 4, 5, 12, 13, 16, 19, 27, 28, 29, 32, 37  
Corruption · 14, 15, 16, 27, 30, 36, 37  
Culture  
    cultural · 29, 30, 32, 33, 34, 36  
Custody · 20, 21

---

## D

Data · 18, 19, 25  
Decision · 5, 15, 19, 31, 34  
Democratic policing · 5, 8, 9, 10, 11, 27, 32, 36, 37  
Democratization · 5  
Deprivation · 20  
    deprive · 8, 16  
Detection  
    detect · 10  
Detention · 20, 21  
    Detainee · 20, 21, 23  
Discrimination · 16, 17, 19, 23, 33, 34  
Discussion · 27, 28  
Duty · 8, 10, 12, 14, 16, 17, 32, 35, 37

---

## E

Education · 15, 30, 34, 35, 36, 37  
    educate · 28  
Emergency · 13, 27  
    Emergencies · 27  
Environment · 9, 25, 33, 34  
Equality · 11, 16, 32  
Equipment · 14, 35  
Ethics · 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 26, 27, 31, 32, 33, 34, 35, 36, 37  
Evaluation · 27

---

## F

Firearms · 12, 21, 22, 25, 32, 35  
*Freedoms*  
    *Freedom* · 4, 8, 10, 11, 16, 17, 18, 21, 24

---

## G

Government · 5, 8, 10, 16, 24, 25, 26, 31, 35  
Guidelines · 12, 14, 18, 20, 21, 23, 27, 28, 29, 30

---

## H

Harassment · 33  
    Sexual · 17  
*Human Rights* · 4, 5, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37

---

## I

Impartiality · 13, 15, 21, 24, 30  
    impartial · 14  
Independence · 13, 26  
Integration · 11, 32, 33  
Interest · 8, 11, 14, 15  
Intervention · 10, 27  
    intervene · 12  
Interview · 18, 20  
Intimidation · 15, 19  
Intrusion · 18  
Investigation · 13, 15, 17, 18, 19, 23, 24, 25, 26, 27, 35  
    investigate · 24, 25

---

## J

Judicial · 13, 18, 23, 31  
Judiciary · 11, 13, 20, 24  
*Justice* · 4, 5, 11, 13, 14, 15, 17, 19, 20, 24, 27, 28  
    Criminal · 13, 19, 37

---

## L

Law · 5, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37

Domestic · 8, 14, 20  
International · 5, 8, 9, 12, 37  
Law and order · 8, 10, 12, 29  
Law enforcement · 5, 10, 16, 17, 18, 21, 22, 24, 25  
Legislation · 8, 12, 16, 17, 37  
Legitimacy · 8, 11, 25, 29, 37  
    legitimate · 18, 19, 21, 22  
Liberty · 20, 21  
Life · 8, 10, 18, 19, 21, 22, 27, 28, 35, 37

---

## M

Management · 9, 18, 24, 31, 32  
Means · 12, 18, 20, 21, 22, 23, 24, 26, 27, 28, 35, 36  
Mechanism · 15, 18, 24, 25, 27, 33  
Media · 10, 24, 26, 27  
Minority · 10, 17, 29, 31, 32, 33, 34  
    groups · 29, 33  
    Minorities · 11, 17, 18, 29, 33, 34  
Misconduct · 24, 25, 26, 37

---

## N

NGO · 16, 27, 29  
Norms · 5

---

## O

Objective · 5, 8, 10, 11, 18, 19, 22, 27, 37  
Obligation · 24, 32  
Offence · 12, 14, 17, 19, 21, 23, 25  
Omission · 12, 14, 15, 31  
Organization · 5, 9, 14, 15, 24, 29, 30, 31, 32, 33, 34, 37  
Organized crime · 5, 37  
OSCE · 5, 8, 10, 17, 18, 24, 28, 29, 31, 32, 33, 34, 36, 37  
Oversight · 9, 10, 15, 24, 25, 26, 27, 31, 34  
    External · 18, 24, 25, 37  
    Internal · 26  
    Mechanism · 24

---

## P

Partnership · 5, 10, 27, 28, 29, 34, 36, 37  
Patrol · 17, 28, 29  
Perception · 27, 37  
Performance · 12, 14, 15, 16, 18, 19, 24, 28, 32, 37  
Permission · 23  
Policies · 5, 12, 13, 15, 16, 17, 24, 25, 26, 27, 28, 31, 32, 33, 34  
    Written · 8, 12, 28  
Practice · 5, 8, 10, 11, 12, 17, 18, 20, 23, 27, 31, 35  
Prevention · 10, 20, 23, 27, 28, 29, 30  
    prevent · 8, 10, 12, 22, 37  
Principles · 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 25, 26, 28, 29, 32, 35, 36, 37  
Privacy · 18  
Procedures · 9, 18, 19, 20, 24, 25, 28, 32, 35, 36  
Professionalism · 8, 11, 14, 18, 20, 21, 34, 35, 36, 37  
Prohibitions · 8, 14  
Protection · 8, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 32  
    protect · 8, 9, 10, 11, 16, 19, 21, 22, 28, 32  
Provision · 9, 15

Public · 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37

---

## Q

Quality · 26, 28, 32, 37

---

## R

Ranks · 15, 33, 36  
Record · 18, 20, 27, 33  
Recruitment · 32, 33, 34  
Reform · 5, 12, 13, 15, 17, 24, 25, 27, 28, 31  
Regulations · 9, 12, 25, 32  
Report · 10, 11, 12, 15, 19, 22, 24, 25, 27, 28, 29, 32, 35  
    reporting · 15, 16, 25, 32  
Representative · 8, 28, 29, 31, 32, 34  
Resources · 9, 14, 25, 26, 27, 31  
Respect · 4, 5, 8, 11, 13, 16, 19, 20, 21, 22, 29, 31, 34, 35, 37  
    respect · 4, 5, 8, 11, 13, 16, 19, 20, 21, 22, 29, 31, 34, 35, 37  
Respond · 11, 27, 29, 37  
Responsibility · 14, 24, 28, 31, 32  
    Responsibilities · 11, 28  
Responsive · 8, 10, 11, 27  
Review · 18, 24, 25, 31, 35, 36  
Rights · 8, 9, 10, 11, 12, 16, 17, 18, 19, 20, 21, 23, 25, 28, 33, 34, 37  
    Civil · 20  
    Fundamental · 8, 10  
    Human · 4, 5, 8, 9, 12, 16, 23, 24, 26, 27, 29, 32, 36, 37  
    Political · 8, 16, 34  
Role-model · 34  
Rule of Law · 4, 5, 8, 9, 11, 12, 16  
Rules · 4, 5, 8, 9, 11, 12, 13, 16, 18, 19, 20, 21, 31, 32, 34, 36

---

## S

Safety · 18, 19, 21, 27, 28, 29, 30, 32, 37  
Security · 4, 5, 10, 11, 12, 16, 17, 19, 21, 24, 27, 28, 29, 31, 32, 34, 37  
    National · 5, 12, 19, 23, 37  
    Public · 5, 27  
Service · 5, 8, 10, 11, 14, 15, 16, 24, 26, 27, 28, 29, 31, 32, 33, 35, 36  
Skills · 22, 29, 33, 35, 36  
Society · 5, 10, 11, 12, 16, 21, 28, 29, 32, 33, 34  
Stability · 5, 17, 29, 31  
Standards · 5, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 31, 32, 33, 34, 36, 37  
State · 5, 8, 9, 10, 11, 12, 14, 16, 17, 19, 23, 24, 31, 32, 34, 37  
Statistics · 27  
Strategies · 9, 24, 37  
Structure · 29, 32  
Supervision · 9, 18, 24, 31, 32  
Supervisor · 32  
Support · 9, 18, 19, 20, 26, 27, 28, 31, 34, 35  
System · 15, 16, 19, 32, 37

---

## **T**

Terrorism · 5, 12, 18, 19, 23, 35, 37  
Threat · 5, 12, 18, 19, 20, 21, 22, 23, 37  
Torture · 18, 20, 23  
Training · 5, 9, 11, 19, 20, 22, 25, 27, 32, 33, 34, 35, 36,  
37  
Transparency · 8, 9, 11, 19, 24, 27, 31, 37  
Trust · 8, 11, 14, 18, 25, 28, 29, 30, 32, 33

---

## **U**

Unbiased · 10, 17, 18  
Use of force · 18, 20, 21, 22, 23, 25

---

## **V**

Values · 11, 12, 14, 15, 31, 36  
Ethical · 8, 14  
Victim · 10, 11, 18, 19  
Vulnerability · 20  
vulnerable · 15, 16

---

## **W**

Witness · 15, 18, 19, 20, 25, 28  
Women · 16, 18, 21, 32, 33, 34